

HOUSE BILL 562

Unofficial Copy
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1999 Regular Session
9r1730
CF 9r1232

By: **Chairman, Judiciary Committee (Maryland Judicial Conference -
Foster Care Court Improvement Implementation Committee)**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Causes**

3 FOR the purpose of separating the statutory provisions relating to children in need of
4 assistance (CINAs) from the statutory provisions relating to delinquents and
5 children in need of supervision; stating the purposes and providing for
6 construction of the provisions relating to CINAs; altering the jurisdiction of the
7 juvenile court; expanding a requirement for assignment of judges specially to
8 hear juvenile causes; imposing a duty to notify the juvenile court of certain
9 pending cases involving alleged CINAs; providing for CINA petitions, including
10 the format and contents of a petition; requiring separate petitions for each child
11 and separate files for each case; repealing the authority of the Department of
12 Juvenile Justice to file CINA petitions; altering the jurisdictions in which CINA
13 petitions may be filed; requiring the juvenile court to communicate with certain
14 other courts as to which court is the appropriate court to take jurisdiction of
15 cases involving children; providing for the treatment of cases transferred within
16 the State; enabling the juvenile court to obtain information under the Maryland
17 Uniform Child Custody Jurisdiction Act; altering the reviewing authority for
18 decisions not to file a CINA petition; altering the authority of the juvenile court
19 to close CINA proceedings to the general public; altering the role of the Office of
20 the Public Defender and attorneys under contract with the Department of
21 Human Resources as to representation of children alleged or adjudicated CINAs
22 and their parents; altering the methods by which a child may be taken into
23 custody under the CINA statute; altering the duty of a law enforcement officer
24 to notify persons about a child being taken into custody; clarifying the next court
25 day on which certain hearings are to be held; altering the agencies responsible
26 for adoption of regulations governing shelter care; conforming terminology in
27 certain provisions relating to shelter care and commitment to provisions in the
28 Health - General Article as to mental disorders, mental retardation, and
29 development disabilities; expanding the required contents of certain
30 regulations; setting times for delivery of evaluations, reports, and permanency
31 plans for CINA proceedings; making certain rules of evidence applicable to
32 adjudication hearings; altering a presumption as to certain babies; clarifying the
33 bases for determinations as to reunification efforts; clarifying that a CINA
34 finding is to be made at the disposition hearing; allowing a court to find a child

1 in need of assistance even if a noncustodial parent is willing and able to care for
2 the child; altering the permissible dispositions; specifying the contents of orders
3 of removal; expanding a requirement for on-the-record findings as to children
4 in need of certain inpatient medical care; enabling a court to pass orders
5 directing, restraining, or otherwise controlling nonparties in limited instances;
6 providing for the enforcement of such orders; expanding the proceedings in
7 which evidence taken in a CINA proceeding may be used; altering the
8 permanency plan options; defining certain terms; altering certain definitions;
9 altering provisions relating to access to court records pertaining to CINA
10 proceedings; clarifying the scope of the Court-Appointed Special Advocate
11 programs; repealing a requirement for local matching funds for such programs;
12 correcting cross-references; making stylistic changes; generally relating to
13 children in need of assistance, children in need of supervision, and delinquents;
14 providing for the construction of this Act; and providing for the effective date of
15 certain provisions of this Act.

16 BY renumbering

17 Article - Courts and Judicial Proceedings
18 Section 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A. Mandamus",
19 respectively
20 to be Section 3-8B-01 and 3-8B-02 and the subtitle "Subtitle 8B. Mandamus",
21 respectively
22 Annotated Code of Maryland
23 (1998 Replacement Volume)

24 BY adding to

25 Article - Courts and Judicial Proceedings
26 Section 3-801 through 3-805, 3-808 through 3-811, 3-813 through 3-817,
27 3-819, 3-820, and 3-824 through 3-827
28 Annotated Code of Maryland
29 (1998 Replacement Volume)

30 BY repealing and reenacting, with amendments,

31 Article - Courts and Judicial Proceedings
32 Section 3-801.1, 3-803, 3-812.1, 3-813, 3-822, 3-826.1, 3-833, 3-834.1, 3-837,
33 and 3-837.1 to be under the amended subtitle "Subtitle 8. Juvenile Causes
34 - Children in Need of Assistance"; 3-801, 3-802, 3-804 through 3-810.1,
35 3-811, 3-812, 3-814 through 3-821, 3-827 through 3-832, 3-834, 3-835,
36 and 3-836 to be under the new subtitle "Subtitle 8A. Juvenile Causes -
37 Children in Need of Supervision; Delinquents"; and 4-301(a), 5-805(a)(3)
38 and (5)(ii)2, and 12-403(a)
39 Annotated Code of Maryland
40 (1998 Replacement Volume)

41 BY adding to

42 Article - Courts and Judicial Proceedings

1 Section 3-8A-04
2 Annotated Code of Maryland
3 (1998 Replacement Volume)

4 BY repealing and reenacting, with amendments,
5 Article - Education
6 Section 7-303(a)(5)(ii) and 26-103(b)(1)
7 Annotated Code of Maryland
8 (1997 Replacement Volume and 1998 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Family Law
11 Section 5-322(a)(1)(ii) and (b)(1)(i) and (2)(i) and 5-525(d)(1)
12 Annotated Code of Maryland
13 (1999 Replacement Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Health - General
16 Section 10-923(a)(4) and (6)
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1998 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 19-515
22 Annotated Code of Maryland
23 (1997 Volume and 1998 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Natural Resources
26 Section 8-712.2
27 Annotated Code of Maryland
28 (1990 Replacement Volume and 1998 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - Transportation
31 Section 16-206(b)(1) and (c)(1) and (2) and 24-304(b)
32 Annotated Code of Maryland
33 (1998 Replacement Volume and 1998 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article 27 - Crimes and Punishments
36 Section 402(a), 406(c), 594A(a) and (b), 737(b), 743(e)(2)(i), 747(a)(21),

1 747A(c)(1), 750A, 763(d), 767, 773(b) and (f), 805A(e), and 855(a)(5)(ii) and
2 (g)(3)
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1998 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 31B - Patuxent Institution
7 Section 13(c)
8 Annotated Code of Maryland
9 (1997 Replacement Volume and 1998 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article 83C - Juvenile Justice
12 Section 2-101(b), 2-112, 2-118(b), and 2-126
13 Annotated Code of Maryland
14 (1998 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That Section(s) 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A.
17 Mandamus", respectively, of Article - Courts and Judicial Proceedings of the
18 Annotated Code of Maryland be renumbered to be Section(s) 3-8B-01 and 3-8B-02
19 and the subtitle "Subtitle 8B. Mandamus", respectively.

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

22 **Article - Courts and Judicial Proceedings**

23 **SUBTITLE 8. JUVENILE CAUSES - CHILDREN IN NEED OF ASSISTANCE.**

24 3-801.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED, UNLESS THE CONTEXT OF THEIR USE INDICATES OTHERWISE.

27 (B) "ABUSE" MEANS:

28 (1) PHYSICAL OR MENTAL INJURY OF A CHILD UNDER CIRCUMSTANCES
29 THAT INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR AT A
30 SUBSTANTIAL RISK OF BEING HARMED BY:

31 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
32 TEMPORARY CARE AND CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
33 CHILD; OR

34 (II) A HOUSEHOLD OR FAMILY MEMBER; OR

1 (2) SEXUAL ABUSE OF A CHILD, WHETHER A PHYSICAL INJURY IS
2 SUSTAINED OR NOT.

3 COMMITTEE NOTE: This definition was added. It is consistent with the
4 definition in § 5-701 of the Family Law Article but has been restructured
5 to clarify that the phrase "under circumstances that indicate ... being
6 harmed" applies to injury by a parent or other custodian, and not merely
7 household or family members.

8 In item (1)(i) of this subsection, the word "individual" was used instead of
9 "person", to make clear that corporations and other entities are not
10 encompassed.

11 (C) "ADJUDICATION HEARING" MEANS A HEARING TO DETERMINE WHETHER
12 THE ALLEGATIONS IN THE PETITION, OTHER THAN THE ALLEGATION THAT THE
13 CHILD REQUIRES COURT INTERVENTION, ARE TRUE.

14 COMMITTEE NOTE: This definition was derived from former § 3-801(b) of
15 this article.

16 (D) "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OLD.

17 COMMITTEE NOTE: This definition was derived from former § 3-801(c) of
18 this article. The word "individual" was substituted for "person", to make
19 clear that corporations or other entities are not encompassed.

20 (E) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

21 COMMITTEE NOTE: This definition was derived from former § 3-801(d) of
22 this article. The word "individual" was substituted for "person", to make
23 clear that corporations or other entities are not encompassed.

24 (F) "CHILD IN NEED OF ASSISTANCE" MEANS A CHILD WHO REQUIRES COURT
25 INTERVENTION BECAUSE:

26 (1) THE CHILD HAS BEEN ABUSED, HAS BEEN NEGLECTED, HAS A
27 DEVELOPMENTAL DISABILITY, OR HAS A MENTAL DISORDER; AND

28 (2) THE CHILD'S PARENTS, GUARDIAN, OR CUSTODIAN ARE UNABLE OR
29 UNWILLING TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S
30 NEEDS.

31 COMMITTEE NOTE: This is language substituted for former § 3-801(e) of
32 this article and revised for clarity.

33 The exemption for nonmedical remedial care is deleted.

34 (G) "CINA" MEANS A CHILD IN NEED OF ASSISTANCE.

35 COMMITTEE NOTE: This definition was added to allow concise reference to a
36 child in need of assistance and coincides with the terminology used in

1 practice.

2 (H) "COMMIT" MEANS TO TRANSFER CUSTODY.

3 COMMITTEE NOTE: This definition was derived from former § 3-801(h) of
4 this article.

5 The word "legal" was deleted to ensure that custody could be transferred
6 from parents who have custody, although without court order. See the
7 definition of "custody".

8 (I) "COURT", UNLESS OTHERWISE INDICATED, MEANS:

9 (1) A CIRCUIT COURT FOR A COUNTY SITTING AS A JUVENILE COURT; OR

10 (2) IN MONTGOMERY COUNTY, THE DISTRICT COURT SITTING AS A
11 JUVENILE COURT.

12 COMMITTEE NOTE: This definition was derived from former § 3-801(i) of
13 this article and was revised to delete the words "Baltimore City". Under
14 Article 1, § 14 of the Code, "county" includes Baltimore City.

15 The directive that the District Court in Montgomery County follow the
16 applicable rules of the circuit court while sitting as a juvenile court is
17 stated as a substantive requirement in proposed § 3-808(a) of this subtitle.

18 (J) "CUSTODIAN" MEANS A PERSON OR GOVERNMENTAL AGENCY TO WHOM
19 CUSTODY OF A CHILD HAS BEEN GIVEN BY ORDER OF COURT, INCLUDING A COURT
20 OTHER THAN A JUVENILE COURT.

21 COMMITTEE NOTE: This definition was derived from former § 3-801(j) of
22 this article and revised to be consistent with the definition of "custody".

23 (K) "CUSTODY" MEANS THE RIGHT AND OBLIGATION, UNLESS OTHERWISE
24 DETERMINED BY THE COURT, TO PROVIDE ORDINARY CARE FOR A CHILD AND
25 DETERMINE PLACEMENT, INCLUDING MAKING ROUTINE MEDICAL AND
26 EDUCATIONAL DECISIONS.

27 COMMITTEE NOTE: This definition was added to reflect terms used in the
28 CINA practice.

29 (L) "DEVELOPMENTAL DISABILITY" MEANS A SEVERE CHRONIC DISABILITY
30 OF AN INDIVIDUAL THAT:

31 (1) IS ATTRIBUTABLE TO A PHYSICAL OR MENTAL IMPAIRMENT, OTHER
32 THAN THE SOLE DIAGNOSIS OF MENTAL ILLNESS, OR TO A COMBINATION OF
33 MENTAL AND PHYSICAL IMPAIRMENTS;

34 (2) IS LIKELY TO CONTINUE INDEFINITELY;

1 (3) RESULTS IN AN INABILITY TO LIVE INDEPENDENTLY WITHOUT
2 EXTERNAL SUPPORT OR CONTINUING AND REGULAR ASSISTANCE; AND

3 (4) REFLECTS THE NEED FOR A COMBINATION AND SEQUENCE OF
4 SPECIAL, INTERDISCIPLINARY, OR GENERIC CARE, TREATMENT, OR OTHER SERVICES
5 THAT ARE INDIVIDUALLY PLANNED AND COORDINATED FOR THE INDIVIDUAL.

6 COMMITTEE NOTE: This definition was added to reflect terms used in CINA
7 practice. The language was taken from the definition in § 7-101 of the
8 Health - General Article, omitting the provision that the disability must
9 manifest before the age of 22.

10 (M) "DISPOSITION HEARING" MEANS A HEARING TO DETERMINE:

11 (1) WHETHER A CHILD IS IN NEED OF ASSISTANCE; AND

12 (2) IF SO, THE NATURE OF THE COURT'S INTERVENTION TO PROTECT
13 THE CHILD'S HEALTH, SAFETY, AND WELL-BEING.

14 COMMITTEE NOTE: This subsection is new language substituted for former
15 § 3-801(n) of this article to clarify what is to occur at a CINA hearing.

16 (N) "GUARDIAN" MEANS A PERSON TO WHOM GUARDIANSHIP OF A CHILD HAS
17 BEEN GIVEN BY ORDER OF COURT, INCLUDING A COURT OTHER THAN A JUVENILE
18 COURT.

19 COMMITTEE NOTE: This definition was added to allow concise reference to
20 the types of parties to a case.

21 (O) "GUARDIANSHIP" MEANS AN AWARD BY THE COURT, INCLUDING A COURT
22 OTHER THAN A JUVENILE COURT, OF:

23 (1) CUSTODY OF A CHILD; AND

24 (2) THE AUTHORITY TO MAKE DECISIONS AS TO THE CHILD'S CARE,
25 WELFARE, EDUCATION, PHYSICAL AND MENTAL HEALTH, AND SUPPORT.

26 COMMITTEE NOTE: This definition was added to allow concise reference to
27 this type of custodianship.

28 (P) "LOCAL DEPARTMENT" MEANS THE LOCAL DEPARTMENT OF SOCIAL
29 SERVICES FOR THE COUNTY WHERE THE COURT IS LOCATED.

30 COMMITTEE NOTE: This definition was derived from former § 3-801(p) of
31 this article.

32 (Q) (1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL
33 ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

34 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO
35 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF AN

1 INDIVIDUAL AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE
2 WELFARE OF THE INDIVIDUAL OR FOR THE SAFETY OF THE PERSON OR PROPERTY
3 OF ANOTHER.

4 (3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

5 COMMITTEE NOTE: This definition was added to coincide with the definition
6 in § 9-101 of the Health - General Article.

7 (R) "MENTAL INJURY" MEANS THE OBSERVABLE, IDENTIFIABLE, AND
8 SUBSTANTIAL IMPAIRMENT OF A CHILD'S MENTAL OR PSYCHOLOGICAL ABILITY TO
9 FUNCTION.

10 COMMITTEE NOTE: This definition was added to coincide with the definition
11 in § 5-701 of the Family Law Article and reflects practice in this area of
12 law.

13 (S) "NEGLECT" MEANS THE LEAVING OF A CHILD UNATTENDED OR OTHER
14 FAILURE TO GIVE PROPER CARE AND ATTENTION TO A CHILD BY ANY INDIVIDUAL
15 WHO HAS PERMANENT OR TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR
16 SUPERVISION OF THE CHILD UNDER CIRCUMSTANCES THAT INDICATE:

17 (1) THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR PLACED AT
18 SUBSTANTIAL RISK OF HARM; OR

19 (2) THAT THE CHILD HAS SUFFERED MENTAL INJURY OR BEEN PLACED
20 AT SUBSTANTIAL RISK OF MENTAL INJURY.

21 COMMITTEE NOTE: This definition was added to coincide with the definition
22 in § 5-701 of the Family Law Article and reflects practice in this area of
23 law.

24 The word "individual" was used instead of "person", to make clear that
25 corporations and other entities are not encompassed.

26 (T) "PARENT" MEANS A NATURAL OR ADOPTIVE PARENT WHOSE PARENTAL
27 RIGHTS HAVE NOT BEEN TERMINATED.

28 COMMITTEE NOTE: This definition was added for clarity.

29 (U) "PARTY" MEANS:

30 (1) A CHILD WHO IS THE SUBJECT OF A PETITION;

31 (2) THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN; AND

32 (3) THE PETITIONER.

33 COMMITTEE NOTE: This definition was derived from the portion of former §
34 3-801(r) of this article applicable to CINA proceedings.

1 It was revised to delete reference to an adult who is charged under this
2 subtitle.

3 A foster parent would not be a party, as a foster parent is not awarded
4 custody by the court.

5 (V) (1) "SEXUAL ABUSE" MEANS AN ACT THAT INVOLVES SEXUAL
6 MOLESTATION OR SEXUAL EXPLOITATION OF A CHILD BY:

7 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
8 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
9 CHILD; OR

10 (II) ANY HOUSEHOLD MEMBER.

11 (2) "SEXUAL ABUSE" INCLUDES:

12 (I) INCEST;

13 (II) RAPE;

14 (III) SEXUAL OFFENSE IN ANY DEGREE;

15 (IV) SODOMY; AND

16 (V) UNNATURAL OR PERVERTED SEXUAL PRACTICES.

17 COMMITTEE NOTE: This definition was added for clarity and is consistent
18 with the definition in § 5-701 of the Family Law Article.

19 The word "individual" was used instead of "person", to make clear that
20 corporations and other entities are not encompassed.

21 (W) "SHELTER CARE" MEANS A TEMPORARY PLACEMENT OF A CHILD OUTSIDE
22 OF THE HOME AT ANY TIME BEFORE DISPOSITION.

23 COMMITTEE NOTE: This definition was derived from the portion of former §
24 3-801(s) of this article applicable to CINAs and was revised to reflect
25 practice in this area of law.

26 (X) "SHELTER CARE HEARING" MEANS A HEARING HELD BEFORE
27 DISPOSITION TO DETERMINE WHETHER THE TEMPORARY PLACEMENT OF THE
28 CHILD OUTSIDE OF THE HOME IS WARRANTED.

29 COMMITTEE NOTE: This definition was added for clarity.

30 (Y) "TPR PROCEEDING" MEANS A PROCEEDING TO TERMINATE PARENTAL
31 RIGHTS.

32 COMMITTEE NOTE: This definition was added to allow concise reference to
33 termination proceedings and coincides with the terminology used in

1 practice.

2 3-802.

3 (A) THE PURPOSES OF THIS SUBTITLE ARE:

4 (1) TO PROVIDE FOR THE CARE, PROTECTION, AND MENTAL AND
5 PHYSICAL DEVELOPMENT OF ANY CHILD COMING WITHIN THE PROVISIONS OF THIS
6 SUBTITLE;

7 (2) TO PROVIDE FOR A PROGRAM OF SERVICES AND TREATMENT
8 CONSISTENT WITH THE CHILD'S BEST INTERESTS AND THE PROMOTION OF THE
9 PUBLIC INTEREST;

10 (3) TO CONSERVE AND STRENGTHEN THE CHILD'S FAMILY TIES AND TO
11 SEPARATE A CHILD FROM THE CHILD'S PARENTS ONLY WHEN NECESSARY FOR THE
12 CHILD'S WELFARE;

13 (4) TO HOLD PARENTS OF CHILDREN FOUND TO BE IN NEED OF
14 ASSISTANCE RESPONSIBLE FOR REMEDYING THE CIRCUMSTANCES THAT REQUIRED
15 THE COURT'S INTERVENTION;

16 (5) IF NECESSARY TO REMOVE A CHILD FROM THE CHILD'S HOME, TO
17 SECURE FOR THE CHILD CUSTODY, CARE, AND DISCIPLINE AS NEARLY AS POSSIBLE
18 EQUIVALENT TO THAT WHICH THE CHILD'S PARENTS SHOULD HAVE GIVEN;

19 (6) TO ACHIEVE THE TIMELY, PERMANENT PLACEMENT FOR THE CHILD
20 CONSISTENT WITH THE CHILD'S BEST INTERESTS; AND

21 (7) TO PROVIDE JUDICIAL PROCEDURES FOR CARRYING OUT THE
22 PROVISIONS OF THIS SUBTITLE.

23 (B) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY TO EFFECTUATE
24 THESE PURPOSES.

25 COMMITTEE NOTE: This section was derived from the portion of former §
26 3-802 of this article applicable to CINAs and was revised for clarity.

27 3-803.

28 (A) IN ADDITION TO ANY JURISDICTION UNDER SUBTITLE 8A OF THIS TITLE,
29 THE COURT HAS EXCLUSIVE ORIGINAL JURISDICTION OVER:

30 (1) PROCEEDINGS ARISING FROM A PETITION ALLEGING THAT A CHILD
31 IS A CINA;

32 (2) PROCEEDINGS ARISING UNDER THE INTERSTATE COMPACT ON
33 PLACEMENT OF CHILDREN;

34 (3) PROCEEDINGS TO TERMINATE PARENTAL RIGHTS AFTER A CINA
35 PROCEEDING; AND

1 (4) GUARDIANSHIP REVIEW PROCEEDINGS AFTER A TPR PROCEEDING;
2 AND

3 (5) ADOPTION PROCEEDINGS, IF ANY, AFTER A TPR PROCEEDING.

4 (B) THE COURT HAS CONCURRENT JURISDICTION OVER CUSTODY,
5 VISITATION, CHILD SUPPORT, OR PATERNITY OF A CHILD FOR WHOM A PETITION HAS
6 BEEN FILED ALLEGING THAT THE CHILD IS A CINA.

7 (C) THE COURT HAS CONCURRENT JURISDICTION OVER PROCEEDINGS
8 AGAINST AN ADULT FOR VIOLATION OF § 3-827 OF THIS SUBTITLE. HOWEVER, THE
9 COURT MAY WAIVE ITS JURISDICTION UNDER THIS SUBSECTION ON ITS OWN
10 MOTION OR ON THE MOTION OF ANY PARTY TO THE PROCEEDING, IF A CHARGE
11 AGAINST THE ADULT ARISING FROM THE SAME INCIDENT IS PENDING IN A
12 CRIMINAL COURT. ON MOTION OF EITHER THE STATE'S ATTORNEY OR THE ADULT
13 CHARGED UNDER § 3-827 OF THIS SUBTITLE, THE COURT SHALL WAIVE ITS
14 JURISDICTION, AND THE ADULT SHALL BE TRIED IN A CRIMINAL COURT ACCORDING
15 TO THE USUAL CRIMINAL PROCEDURE.

16 (D) DURING PENDENCY OF AN ACTION UNDER THIS SUBTITLE, A PARTY HAS A
17 CONTINUING DUTY TO ADVISE THE COURT AND ANY OTHER COURT CONSIDERING
18 CUSTODY, SUPPORT, VISITATION OR PATERNITY OF A CHILD, OF THE PENDENCY OF
19 ANY OTHER ACTION CONCERNING THE CHILD, WHETHER THE ACTION IS IN THIS OR
20 ANOTHER STATE.

21 (E) IF THE COURT AND ANOTHER COURT BOTH HAVE PENDING ACTIONS
22 INVOLVING AN ALLEGED CINA, THE COURT SHALL COMMUNICATE WITH THE OTHER
23 COURT EXPEDITIOUSLY TO DETERMINE THE MOST APPROPRIATE COURT TO TAKE
24 FURTHER ACTION WITH REGARD TO THE CHILD.

25 COMMITTEE NOTE: Subsections (a) and (c) of this section were derived from
26 former § 3-804(a)(2) and (c) of this article. Subsection (a) of this section
27 was expanded.

28 Subsections (b), (d), and (e) of this section are new.

29 3-804.

30 (A) THE COURT MAY TAKE JURISDICTION ONLY IF THE ALLEGED CINA IS
31 UNDER THE AGE OF 18 YEARS WHEN THE PETITION IS FILED.

32 (B) ONCE THE COURT ASSERTS JURISDICTION OVER A CHILD, THAT
33 JURISDICTION CONTINUES IN THAT CASE UNTIL THE CHILD IS 21 YEARS OLD,
34 UNLESS THE COURT TERMINATES THE CASE.

35 (C) AFTER THE COURT TERMINATES JURISDICTION, A CUSTODY ORDER
36 PASSED BY THE COURT IN A CINA CASE:

37 (1) REMAINS IN EFFECT; AND

1 (2) MAY BE REVISED OR SUPERSEDED ONLY BY ANOTHER COURT OF
2 COMPETENT JURISDICTION.

3 COMMITTEE NOTE: The Committee combined former §§ 3-805(b) and
4 3-806(a) and (d) of this article.

5 3-805.

6 (A) A PETITION ALLEGING THAT A CHILD IS A CINA SHALL BE FILED IN THE
7 COUNTY WHERE:

8 (1) THE CHILD IS RESIDING WHEN THE PETITION IS FILED; OR

9 (2) THE ACT ON WHICH THE PETITION IS BASED ALLEGEDLY
10 OCCURRED.

11 (B) (1) WHENEVER A PETITION IS FILED OTHER THAN IN THE COUNTY
12 WHERE THE CHILD RESIDES, THE COURT, ON ITS OWN MOTION OR ON MOTION OF A
13 PARTY, MAY TRANSFER THE PROCEEDINGS AT ANY TIME TO ANY APPROPRIATE
14 COUNTY, INCLUDING A COUNTY WHERE:

15 (I) ANOTHER PROCEEDING INVOLVING CUSTODY, VISITATION, OR
16 SUPPORT OF THE CHILD IS PENDING;

17 (II) THE CHILD RESIDES;

18 (III) THE PARENT OF THE CHILD RESIDES; OR

19 (IV) THE COURT DETERMINES IT IS IN THE CHILD'S BEST
20 INTERESTS FOR FURTHER PROCEEDINGS CONCERNING THE CHILD TO TAKE PLACE.

21 (2) BEFORE THE COURT TRANSFERS A PROCEEDING TO A COURT IN THE
22 STATE, THE COURT SHALL COMMUNICATE WITH THE JUVENILE JUDGE OF THE
23 OTHER COURT OR THE JUDGE'S DESIGNEE.

24 (3) BEFORE THE COURT TRANSFERS A PROCEEDING TO A COURT
25 OUTSIDE THE STATE, THE COURT SHALL COMMUNICATE WITH THE OTHER COURT IN
26 ACCORDANCE WITH THE MARYLAND UNIFORM CHILD CUSTODY JURISDICTION ACT.

27 (4) WITHIN 15 DAYS AFTER THE COURT ORDERS A TRANSFER, THE
28 CLERK OF THE COURT SHALL FORWARD TO THE RECEIVING COURT EVERY
29 DOCUMENT ON FILE WITH THE COURT. IF A CASE IS TRANSFERRED TO ANOTHER
30 COURT IN THIS STATE, THE RECEIVING COURT SHALL TREAT THE CASE AS IF IT HAS
31 BEEN FILED WITH THAT COURT INITIALLY AND SHALL SET HEARING DATES AS
32 CLOSE AS PRACTICABLE TO THOSE SET FORTH IN ANY PENDING ORDERS PASSED BY
33 THE SENDING COURT.

34 (C) IF INFORMATION ABOUT A CHILD IS ALLEGED TO BE AVAILABLE IN
35 ANOTHER JURISDICTION IN OR OUTSIDE OF THIS STATE, THE COURT, ON ITS OWN

1 MOTION OR ON MOTION OF A PARTY, MAY USE THE PROVISIONS OF THE MARYLAND
2 UNIFORM CHILD CUSTODY JURISDICTION ACT TO OBTAIN THAT INFORMATION.

3 COMMITTEE NOTE: Subsection (a)(1) of this section was derived from former
4 § 3-808(a) of this article.

5 Subsection (a)(2) of this section is new language added to state expressly
6 that a petition can be filed in a county where the act on which the petition
7 is based allegedly occurred.

8 Subsections (b) and (c) of this section were derived from former §
9 3-809(a)(1) and (b) of this article and have new language added to clarify
10 the process of transferring cases in- and out-of-state.

11 [3-803.] 3-306.

12 (a) In [Baltimore City, Prince George's County and in any] EVERY county [in
13 which the case load requires it], one or more judges shall be assigned specially to
14 handle cases arising under this subtitle AND SUBTITLE 8A OF THIS TITLE. The
15 assignment shall be made by the CIRCUIT administrative judge [of the circuit],
16 subject to the approval of the Chief Judge of the Court of Appeals, except that in
17 Montgomery County, the assignment shall be made by the Chief Judge of the District
18 Court, subject to the approval of the Chief Judge of the Court of Appeals. The judges
19 so assigned are not subject to an automatic regular rotation.

20 (b) To the extent feasible, the judges assigned [to hear juvenile causes]
21 UNDER THIS SECTION shall [be those who]:

22 (1) Desire to be so assigned;

23 (2) Have the temperament necessary to deal properly with the cases and
24 children likely to come before the court; and

25 (3) Have special experience or training in juvenile causes and the
26 problems of children likely to come before the court.

27 [3-813.] 3-807.

28 (a) (1) The judges of a circuit court may not appoint a master for juvenile
29 causes unless the appointment and the appointee are approved by the Chief Judge of
30 the Court of Appeals. The standards expressed in [§ 3-803] § 3-806 OF THIS
31 SUBTITLE, with respect to the assignment of judges, are applicable to the
32 appointment of masters. A master, at the time of [his] appointment and [thereafter
33 during his service] AT ALL TIMES WHILE SERVING as a master, shall be a member in
34 good standing of the Maryland Bar.

35 (2) (i) In Prince George's County, the judges of the Circuit Court may
36 not appoint or continue the appointment of masters for juvenile causes, except for the
37 purpose of conducting probable cause hearings, detention hearings, arraignments,
38 acceptances of admissions, and restitution hearings in delinquency cases, and shelter

1 care, [adjudicatory] ADJUDICATION, and disposition hearings in child in need of
2 assistance cases.

3 (ii) A master in Prince George's County may not conduct:

4 1. An adjudicatory hearing in delinquency cases, unless the
5 adjudicatory hearing is limited to the acceptance of an admission; or

6 2. A disposition hearing in delinquency cases.

7 (b) [If a] A master [is] appointed for juvenile causes[, he is authorized to]
8 MAY conduct hearings. These proceedings shall be recorded, and the master shall
9 make findings of fact, conclusions of law, and recommendations as to an appropriate
10 order. These proposals and recommendations shall be in writing, and, within 10 days
11 after the hearing, the original shall be filed with the court and a copy served upon
12 each party to the proceeding.

13 (c) (1) Any party, in accordance with the Maryland Rules, may file written
14 exceptions to any or all of the master's findings, conclusions, and recommendations,
15 but shall specify those items to which [he] THE PARTY objects.

16 (2) The party who files exceptions may elect a hearing de novo or a
17 hearing on the record before the court unless the party is the State in proceedings
18 involving juvenile delinquency.

19 (3) If the State is the excepting party in proceedings involving juvenile
20 delinquency, the hearing shall be on the record, supplemented by additional evidence
21 as the judge considers relevant and to which the parties raise no objection.

22 (4) In either case, the hearing shall be limited to those matters to which
23 exceptions have been taken.

24 (d) The proposals and recommendations of a master for juvenile causes do not
25 constitute orders or final action of the court. They shall be promptly reviewed by the
26 court; and in the absence of timely and proper exceptions, they may be adopted by the
27 court and appropriate orders entered based on them. Detention or shelter care may be
28 ordered by a master pending court review of [his] THE MASTER'S findings,
29 conclusions and recommendations.

30 (e) If the court, on its own motion and in the absence of timely and proper
31 exceptions, decides not to adopt the master's findings, conclusions, and
32 recommendations, or any of them it shall conduct a de novo hearing. However, if all
33 parties and the court agree, the hearing may be on the record.

34 3-808.

35 (A) THE COURT SHALL TRY CASES UNDER THIS SUBTITLE WITHOUT A JURY.

1 (B) WHILE SITTING AS THE JUVENILE COURT, THE DISTRICT COURT IN
2 MONTGOMERY COUNTY SHALL FOLLOW THE APPLICABLE RULES OF A CIRCUIT
3 COURT SITTING AS THE JUVENILE COURT.

4 (C) FOR PURPOSES OF TITLE 12 OF THIS ARTICLE, AN ACTION, DECISION,
5 ORDER, OR JUDGMENT OF THE DISTRICT COURT IN MONTGOMERY COUNTY SITTING
6 AS A JUVENILE COURT SHALL BE TREATED IN THE SAME MANNER AS IF IT HAD BEEN
7 MADE, DONE, OR ENTERED BY A CIRCUIT COURT.

8 COMMITTEE NOTE: Subsection (a) of this section was derived from former §
9 3-812(f) of this article.

10 Subsection (b) of this section was derived from former § 3-801(i) of this
11 article and restated as a substantive provision.

12 Subsection (c) of this section was derived from former § 3-832 of this
13 article.

14 3-809.

15 (A) AFTER INVESTIGATION OF A REPORT OF ABUSE OR NEGLECT, THE LOCAL
16 DEPARTMENT SHALL FILE A PETITION UNDER THIS SUBTITLE IF IT CONCLUDES
17 THAT THE COURT HAS JURISDICTION OVER THE MATTER AND THAT THE FILING OF A
18 PETITION IS IN THE BEST INTERESTS OF THE CHILD.

19 (B) WITHIN 5 DAYS AFTER REACHING A DECISION NOT TO FILE A PETITION,
20 THE LOCAL DEPARTMENT SHALL INFORM IN WRITING THE FOLLOWING PERSONS OF,
21 AND THE REASONS FOR, THE DECISION:

22 (1) THE CHILD WHO WOULD HAVE BEEN THE SUBJECT OF THE
23 PETITION, IF PRACTICABLE;

24 (2) THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD WHO
25 WOULD HAVE BEEN THE SUBJECT OF THE PETITION; AND

26 (3) ANY PERSONS WHO REQUESTED THAT A PETITION BE FILED.

27 (C) WITHIN 15 DAYS AFTER NOTICE THAT A LOCAL DEPARTMENT HAS
28 DECIDED NOT TO FILE A PETITION, THE PERSON WHO REQUESTED THAT A PETITION
29 BE FILED MAY REQUEST REVIEW BY THE SECRETARY OF HUMAN RESOURCES.

30 (D) WITHIN 15 DAYS AFTER A REQUEST FOR REVIEW IS RECEIVED, THE
31 SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S DESIGNEE SHALL REVIEW
32 THE REPORT AND MAY DIRECT THE LOCAL DEPARTMENT TO FILE A PETITION
33 WITHIN 5 DAYS.

34 (E) A DECISION OF THE SECRETARY OF HUMAN RESOURCES OR THE
35 SECRETARY'S DESIGNEE UNDER THIS SECTION IS NOT SUBJECT TO JUDICIAL
36 REVIEW.

1 COMMITTEE NOTE: This section was derived from former § 3-810(b), (d), and
2 (j) of this article. The Committee added new language to outline
3 specifically the procedures for the filing of a petition. This section divests
4 the Department of Juvenile Justice of its authority to file a CINA petition
5 and to review decisions not to file petitions.

6 3-810.

7 (A) EXCEPT AS OTHERWISE PROVIDED ON THIS SUBTITLE, THE MARYLAND
8 RULES GOVERN THE FORMAT OF A PETITION AND OF OTHER PLEADINGS AND THE
9 PROCEDURES TO BE FOLLOWED BY THE COURT AND PARTIES UNDER THIS SUBTITLE.

10 (B) (1) IN ANY PROCEEDING IN WHICH A CHILD IS ALLEGED TO BE IN NEED
11 OF ASSISTANCE, THE COURT MAY EXCLUDE THE GENERAL PUBLIC FROM A HEARING
12 AND ADMIT ONLY THOSE PERSONS AND THEIR REPRESENTATIVES HAVING A DIRECT
13 INTEREST IN THE PROCEEDING.

14 (2) THE COURT SHALL EXCLUDE THE GENERAL PUBLIC FROM A
15 HEARING WHERE THE PROCEEDINGS INVOLVE DISCUSSION OF CONFIDENTIAL
16 INFORMATION FROM THE CHILD ABUSE AND NEGLECT REPORT AND RECORD, OR
17 ANY INFORMATION OBTAINED FROM THE CHILD WELFARE AGENCY CONCERNING A
18 CHILD OR FAMILY WHO IS RECEIVING TITLE IV-B CHILD WELFARE SERVICES OR
19 TITLE IV-E FOSTER CARE OR ADOPTION ASSISTANCE.

20 (C) THE COURT SHALL HEAR AND RULE ON A PETITION SEEKING AN ORDER
21 FOR EMERGENCY MEDICAL OR PSYCHIATRIC TREATMENT ON AN EXPEDITED BASIS.

22 (D) THE CLERK OF THE COURT SHALL MAKE A SEPARATE FILE FOR EACH
23 CASE.

24 COMMITTEE NOTE: Subsections (a), (b)(1), and (c) of this section were derived
25 from former § 3-812(c), (e)(2), and (h) of this article.

26 The purpose of adding subsection (b)(2) of this section is to ensure
27 compliance with the Child Abuse Prevention and Treatment Act (CAPTA)
28 Title IV-B and Title IV-E. These provisions do allow disclosure of such
29 information in cases of child abuse and neglect that result in death or near
30 death of a child.

31 Subsection (d) of this section was added to allow more consistent and
32 reliable statistical records.

33 3-811.

34 (A) A PETITION SHALL ALLEGE THAT A CHILD IS IN NEED OF ASSISTANCE AND
35 SHALL SET FORTH IN CLEAR AND SIMPLE LANGUAGE THE FACTS SUPPORTING THAT
36 ALLEGATION.

37 (B) A SEPARATE PETITION SHALL BE FILED AS TO EACH CHILD.

1 COMMITTEE NOTE: Subsection (a) of this section was derived from former §
2 3-812 of this article.

3 Subsection (b) of this section was added. The filing of separate petitions
4 does not prevent the current practice in many jurisdictions of scheduling
5 sibling hearings at the same time.

6 [3-812.1.] 3-812.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED, UNLESS THE CONTEXT OF THEIR USE INDICATES OTHERWISE.

9 (2) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
10 643B OF THE CODE.

11 (3) "INVOLUNTARILY LOST PARENTAL RIGHTS" DOES NOT INCLUDE
12 WHEN A PARENT HAS BEEN DEEMED TO HAVE A CONSENTED DUE TO LACK OF
13 RESPONSE TO OR FAILURE TO FILE AN OBJECTION TO A SHOW CAUSE ORDER OR IF A
14 PARENT CONSENTS TO THE TERMINATION OF PARENTAL RIGHTS BEFORE A DECREE
15 IS ISSUED.

16 (4) "TORTURE" MEANS TO INFLICT INTENSE PAIN TO BODY OR MIND FOR
17 PURPOSES OF PUNISHMENT OR EXTRACTION OF INFORMATION OR FOR SADISTIC
18 PURPOSES.

19 [(a)] (B) In a petition [alleging that a child is in need of assistance, the]
20 UNDER THIS SUBTITLE, A local department may [request] ASK the court to find that
21 reasonable efforts to reunify [the] A child with the child's natural parent or guardian
22 are not required if the local department [determines] CONCLUDES that a natural
23 parent OR GUARDIAN has:

24 (1) Subjected the child to:

25 (i) [Torture, chronic] CHRONIC abuse[, or sexual abuse; or]

26 (ii) Chronic and life-threatening neglect;

27 (III) SEXUAL ABUSE; OR

28 (IV) TORTURE;

29 (2) Been convicted:

30 (i) In this State of a crime of violence[, as defined in Article 27, §
31 643B of the Code,] against the child, the other natural parent of the child, another
32 child of the natural parent, or any [person] INDIVIDUAL who resides in the household
33 of the natural parent;

34 (ii) In any state or in any court of the United States of a crime [that
35 would be a crime of violence, as defined in Article 27, § 643B of the Code, if committed
36 in this State] against the child, the other natural parent of the child, another child of

1 the natural parent, or any [person] INDIVIDUAL who resides in the household of the
2 natural parent THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED IN THIS
3 STATE; or

4 (iii) Of aiding or abetting, conspiring, or soliciting to commit a crime
5 described in [item a or item b of this item] ITEM (I) OR (II) OF THIS ITEM; or

6 (3) Involuntarily lost parental rights of a sibling of a child.

7 [(b)] (C) If the local department determines after the initial petition is filed
8 that any of the circumstances specified in subsection [(a)] (B) of this section exists,
9 the local department may immediately request the court to find that reasonable
10 efforts to reunify the child with the child's parent or guardian are not required.

11 [(c)] (D) If the court finds by clear and convincing evidence that any of the
12 circumstances specified in subsection [(a)] (B) of this section [exist] EXISTS, the
13 court shall waive the requirement that reasonable efforts be made to reunify the child
14 with the child's natural parent or guardian.

15 [(d)] (E) If the court finds that reasonable efforts are not required, the local
16 department shall:

17 (1) Request that a permanency planning hearing be held in accordance
18 with [§ 3-826.1] § 3-822 of this subtitle within 30 days after the court makes the
19 finding; and

20 (2) Make reasonable efforts to place the child in a timely manner in
21 accordance with the permanency plan and complete the steps necessary to finalize
22 the permanent placement of the child.

23 COMMITTEE NOTE: New language and definitions were added to clarify
24 Chapter 539 (HB 1093), Acts of 1998.

25 3-813.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) AND (C) OF THIS SECTION, A
27 PARTY IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY STAGE OF ANY
28 PROCEEDING UNDER THIS SUBTITLE.

29 (B) EXCEPT FOR THE LOCAL DEPARTMENT AND THE CHILD WHO IS THE
30 SUBJECT OF THE PETITION, A PARTY IS NOT ENTITLED TO THE ASSISTANCE OF
31 COUNSEL AT STATE EXPENSE UNLESS THAT PARTY IS:

32 (1) INDIGENT; OR

33 (2) OTHERWISE NOT REPRESENTED AND:

34 (I) UNDER THE AGE OF 18 YEARS; OR

35 (II) INCOMPETENT BY REASON OF MENTAL DISABILITY.

1 (C) THE OFFICE OF THE PUBLIC DEFENDER MAY NOT REPRESENT A PARTY IN
2 A CINA PROCEEDING UNLESS THE PARTY:

3 (1) IS THE PARENT OR LEGAL GUARDIAN OF THE ALLEGED CINA;

4 (2) APPLIES TO THE OFFICE OF THE PUBLIC DEFENDER REQUESTING
5 LEGAL REPRESENTATION BY THE PUBLIC DEFENDER IN THE PROCEEDING;

6 (3) IS FINANCIALLY ELIGIBLE FOR THE SERVICES OF THE PUBLIC
7 DEFENDER.

8 (D) (1) A CHILD WHO IS THE SUBJECT OF A CINA PETITION SHALL BE
9 REPRESENTED BY COUNSEL.

10 (2) UNLESS THE COURT FINDS THAT IT WOULD NOT BE IN THE BEST
11 INTERESTS OF THE CHILD, THE COURT SHALL:

12 (I) APPOINT AN ATTORNEY WITH WHOM THE DEPARTMENT OF
13 HUMAN RESOURCES HAS CONTRACTED TO PROVIDE THOSE SERVICES, IN
14 ACCORDANCE WITH THE TERMS OF THE CONTRACT; AND

15 (II) IF ANOTHER ATTORNEY HAS PREVIOUSLY BEEN APPOINTED,
16 STRIKE THE APPEARANCE OF THAT ATTORNEY.

17 (E) IN ADDITION TO, BUT NOT INSTEAD OF, THE APPOINTMENT OF AN
18 ATTORNEY UNDER THIS SECTION, THE COURT, IN ANY ACTION, MAY APPOINT AN
19 INDIVIDUAL PROVIDED BY A COURT-APPOINTED SPECIAL ADVOCATE PROGRAM
20 CREATED UNDER § 3-829 OF THIS SUBTITLE.

21 (F) THE COURT MAY ASSESS COMPENSATION FOR THE SERVICES OF AN
22 ATTORNEY APPOINTED TO REPRESENT A CHILD IN AN ACTION UNDER THIS
23 SUBTITLE AGAINST ANY PARTY.

24 COMMITTEE NOTE: This section was derived from former §§ 3-821 and
25 3-834(a)(2) and (c) of this article.

26 It is intent of the Committee that every child who is the subject of a CINA
27 petition is afforded an attorney in all stages of the CINA proceeding. The
28 court has no discretion as to whether or not to appoint an attorney for the
29 child.

30 This revision expands the scope of representation of parents by the Office
31 of the Public Defender (OPD). The Committee believes that all indigent
32 parents have a right to representation in CINA proceedings at State
33 expense. This revision also eliminates the ability of the OPD to represent a
34 child in a CINA proceeding. This would alleviate the practice in
35 Montgomery County of the OPD representing both parents and children in
36 CINA proceedings. Children in Montgomery County would be represented
37 by an attorney with whom the Department of Human Resources has
38 contracted.

1 3-814.

2 (A) A CHILD MAY BE TAKEN INTO CUSTODY UNDER THIS SUBTITLE BY ANY OF
3 THE FOLLOWING METHODS:

4 (1) IN ACCORDANCE WITH AN ORDER OF THE COURT;

5 (2) IN ACCORDANCE WITH § 5-709 OF THE FAMILY LAW ARTICLE; OR

6 (3) BY A LAW ENFORCEMENT OFFICER IF THE OFFICER HAS
7 REASONABLE GROUNDS TO BELIEVE THAT THE CHILD IS IN SERIOUS IMMEDIATE
8 DANGER FROM THE CHILD'S SURROUNDINGS OR THAT THE CHILD'S REMOVAL IS
9 NECESSARY FOR THE CHILD'S PROTECTION.

10 (B) WHENEVER A LAW ENFORCEMENT OFFICER TAKES A CHILD INTO
11 CUSTODY UNDER THIS SECTION, THE OFFICER SHALL:

12 (1) IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT; AND

13 (2) KEEP CUSTODY ONLY UNTIL THE LOCAL DEPARTMENT EITHER
14 TAKES CUSTODY UNDER § 3-815 OF THIS SUBTITLE OR AUTHORIZES RELEASE OF THE
15 CHILD.

16 COMMITTEE NOTE: This section was derived from former § 3-814(a) of this
17 article and was revised with the word "serious" added to reiterate the high
18 standard that an officer should use before removing a child from the home.
19 An officer is the only person authorized to remove a child other than the
20 local department.

21 This section omits the provision of former § 3-814(b) of this subtitle that
22 directs the officer to notify the parents of a removal. It is the Committee's
23 intent that the local department should make a preliminary investigation
24 decision before a child is returned to the parents.

25 3-815.

26 (A) IN ACCORDANCE WITH REGULATION ADOPTED BY THE DEPARTMENT OF
27 HUMAN RESOURCES, A LOCAL DEPARTMENT MAY AUTHORIZE SHELTER CARE FOR A
28 CHILD WHO MAY BE IN NEED OF ASSISTANCE AND HAS BEEN TAKEN INTO CUSTODY.

29 (B) A LOCAL DEPARTMENT MAY PLACE A CHILD IN EMERGENCY SHELTER
30 CARE BEFORE A HEARING IF:

31 (1) PLACEMENT IS REQUIRED TO PROTECT THE CHILD FROM SERIOUS
32 IMMEDIATE DANGER;

33 (2) THERE IS NO PARENT, GUARDIAN, CUSTODIAN, OR OTHER PERSON
34 ABLE TO PROVIDE SUPERVISION; AND

35 (3) (I) 1. THE CHILD'S CONTINUED PLACEMENT IN THE CHILD'S
36 HOME IS CONTRARY TO THE WELFARE OF THE CHILD; AND

1 (E) (1) IF THE COURT CONTINUES SHELTER CARE ON THE BASIS OF AN
2 ALLEGED EMERGENCY, THE COURT SHALL ASSESS WHETHER THE ABSENCE OF
3 EFFORTS TO PREVENT REMOVAL WAS REASONABLE.

4 (2) IF THE COURT FINDS THAT THE ABSENCE OF EFFORTS TO PREVENT
5 REMOVAL WAS NOT REASONABLE, THE COURT SHALL MAKE A WRITTEN
6 DETERMINATION SO STATING.

7 (3) THE COURT SHALL MAKE A WRITTEN DETERMINATION AS TO
8 WHETHER REASONABLE EFFORTS ARE BEING MADE TO MAKE IT POSSIBLE TO
9 RETURN THE CHILD TO THE CHILD'S HOME OR WHETHER THE ABSENCE OF SUCH
10 EFFORTS IS REASONABLE.

11 (F) (1) AN ALLEGED CINA MAY NOT BE PLACED IN DETENTION AND MAY
12 NOT BE PLACED IN A MENTAL HEALTH FACILITY UNLESS COMMITTED IN
13 ACCORDANCE WITH § 10-616 OF THE HEALTH - GENERAL ARTICLE.

14 (2) (I) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE
15 BECAUSE OF A MENTAL DISORDER OR A DEVELOPMENTAL DISABILITY, THE CHILD
16 MAY BE PLACED IN A SHELTER CARE FACILITY MAINTAINED OR LICENSED BY THE
17 DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR IF NO SUCH FACILITY IS
18 AVAILABLE, IN A PRIVATE HOME OR SHELTER CARE FACILITY APPROVED BY THE
19 COURT.

20 (II) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE FOR
21 ANY OTHER REASON, THE CHILD MAY BE PLACED IN A SHELTER CARE FACILITY
22 MAINTAINED OR APPROVED BY THE SOCIAL SERVICES ADMINISTRATION OR THE
23 DEPARTMENT OF JUVENILE JUSTICE OR IN A PRIVATE HOME OR SHELTER CARE
24 FACILITY APPROVED BY THE COURT.

25 (3) AN ALLEGED CINA MAY NOT BE PLACED IN A SHELTER CARE
26 FACILITY THAT IS NOT OPERATING IN COMPLIANCE WITH APPLICABLE STATE
27 LICENSING LAWS.

28 (4) THE SECRETARY OF HUMAN RESOURCES, THE SECRETARY OF
29 JUVENILE JUSTICE, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, AND THE
30 SPECIAL SECRETARY FOR CHILDREN, YOUTH, AND FAMILIES, WHEN APPROPRIATE,
31 SHALL JOINTLY ADOPT REGULATIONS TO ENSURE THAT ANY CHILD PLACED IN
32 SHELTER CARE IN ACCORDANCE WITH A PETITION FILED UNDER THIS SECTION BE
33 PROVIDED APPROPRIATE SERVICES, INCLUDING:

- 34 (I) HEALTH CARE SERVICES;
- 35 (II) MENTAL HEALTH CARE SERVICES;
- 36 (III) COUNSELING SERVICES;
- 37 (IV) EDUCATION SERVICES;
- 38 (V) SOCIAL WORK SERVICES; AND

1 (VI) DRUG AND ALCOHOL ABUSE ASSESSMENT OR TREATMENT
2 SERVICES.

3 (5) IN ADDITION TO ANY OTHER PROVISION, THE REGULATIONS SHALL
4 REQUIRE THE LOCAL DEPARTMENT TO:

5 (I) DEVELOP A PLAN WITHIN 45 DAYS OF PLACEMENT OF A CHILD
6 IN A SHELTER CARE FACILITY TO ASSESS THE CHILD'S TREATMENT NEEDS; AND

7 (II) SUBMIT THE PLAN TO ALL PARTIES TO THE PETITION AND
8 THEIR COUNSEL.

9 COMMITTEE NOTE: This section was derived from former § 3-815(a) through
10 (d)(5), (f), and (h) of this article.

11 Language was added to subsection (c) to clarify that the court should hear
12 a petition for continued shelter care not later than the next day that the
13 circuit court is sitting. This will prevent jurisdictions that currently do not
14 schedule juvenile court every day from delaying a shelter care hearing. If
15 there are children removed and petitions filed, a hearing must be held the
16 next circuit court day.

17 Subsection (f)(2) of this section was revised in language consistent with
18 terminology used in the Health - General Article.

19 3-816.

20 (A) AFTER A PETITION IS FILED UNDER THIS SUBTITLE, THE COURT MAY
21 ORDER THE LOCAL DEPARTMENT OR ANOTHER QUALIFIED AGENCY TO MAKE OR
22 ARRANGE FOR A STUDY CONCERNING THE CHILD, THE CHILD'S FAMILY, THE CHILD'S
23 ENVIRONMENT, AND OTHER MATTERS RELEVANT TO THE DISPOSITION OF THE CASE.

24 (B) (1) AS PART OF A STUDY UNDER THIS SECTION, THE COURT MAY ORDER
25 THAT THE CHILD OR ANY PARENT, GUARDIAN, OR CUSTODIAN BE EXAMINED AT A
26 SUITABLE PLACE BY A PHYSICIAN, PSYCHIATRIST, PSYCHOLOGIST, OR OTHER
27 PROFESSIONALLY QUALIFIED PERSON.

28 (2) THE COURT MAY NOT ORDER INPATIENT EVALUATION UNLESS,
29 AFTER HEARING, THE COURT FINDS THAT AN INPATIENT EVALUATION IS
30 NECESSARY. A CHILD'S PLACEMENT IN AN INPATIENT FACILITY MAY NOT EXCEED 20
31 DAYS UNLESS THE COURT FINDS GOOD CAUSE.

32 (C) THE REPORT OF A STUDY UNDER THIS SECTION IS ADMISSIBLE AS
33 EVIDENCE AT A DISPOSITION HEARING BUT NOT AT AN ADJUDICATION HEARING.
34 HOWEVER, THE ATTORNEY FOR EACH PARTY HAS THE RIGHT TO RECEIVE THE
35 REPORT AT LEAST 3 DAYS BEFORE ITS PRESENTATION TO THE COURT, TO
36 CHALLENGE OR IMPEACH ITS FINDINGS AND TO PRESENT APPROPRIATE EVIDENCE
37 WITH RESPECT TO IT.

1 COMMITTEE NOTE: Subsections (a), (b)(1), and (c) of this section were derived
2 from former § 3-818 of this article.

3 Subsection (b)(2) was of this section added to state expressly that the court
4 may not order an inpatient evaluation, unless after hearing the court finds
5 that it is necessary.

6 This revision also dictates how far in advance a report of the study of the
7 child or family must be given to the attorney for each party if the report is
8 to be presented to the court.

9 3-817.

10 (A) AFTER A PETITION IS FILED UNDER THIS SUBTITLE, THE COURT SHALL
11 HOLD AN ADJUDICATION HEARING.

12 (B) THE RULES OF EVIDENCE UNDER TITLE 5 OF THE MARYLAND RULES
13 SHALL APPLY AT AN ADJUDICATION HEARING.

14 (C) THE ALLEGATIONS IN A PETITION UNDER THIS SUBTITLE SHALL BE
15 PROVED BY A PREPONDERANCE OF THE EVIDENCE.

16 COMMITTEE NOTE: Subsections (a) and (c) of this section were derived from
17 former § 3-819 of this article.

18 Subsection (b) of this section was added to address evidentiary procedures.

19 [3-801.1.] 3-818.

20 [There] WITHIN 1 YEAR AFTER A CHILD'S BIRTH, THERE is a REBUTTABLE
21 presumption that a child is not receiving[ordinary and] proper care and attention
22 [under § 3-801(e)(1)] FOR PURPOSES OF § 3-801(F)(2) of this subtitle if the child:

23 (1) Was born addicted to or dependent on cocaine, heroin, or a derivative
24 [thereof] OF COCAINE OR HEROIN; or

25 (2) Was born with a significant presence of cocaine, heroin, or a
26 derivative [thereof] OF COCAINE OR HEROIN in the child's blood as evidence by
27 toxicology or other appropriate tests.

28 COMMITTEE NOTE: This section was revised to make the presumption
29 rebuttable and to limit it to children within a year of their birth.

30 3-819.

31 (A) (1) UNLESS A PETITION UNDER THIS SUBTITLE IS DISMISSED, THE
32 COURT SHALL HOLD A SEPARATE DISPOSITION HEARING AFTER AN ADJUDICATION
33 HEARING TO DETERMINE WHETHER THE CHILD IS A CINA.

34 (2) THE DISPOSITION HEARING SHALL BE HELD ON THE SAME DAY AS
35 THE ADJUDICATION HEARING UNLESS ON ITS OWN MOTION OR MOTION OF A PARTY,

1 THE COURT FINDS THAT THERE IS GOOD CAUSE TO DELAY THE DISPOSITION
2 HEARING TO A LATER DAY.

3 (3) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD
4 NO LATER THAN 30 DAYS AFTER THE CONCLUSION OF THE ADJUDICATION HEARING.

5 (B) IN MAKING A DISPOSITION ON A PETITION UNDER THIS SUBTITLE, THE
6 COURT MAY:

7 (1) COMMIT THE CHILD:

8 (I) TO THE CUSTODY OR TO THE GUARDIANSHIP OF A RELATIVE
9 OR OTHER INDIVIDUAL, ON TERMS THE COURT CONSIDERS APPROPRIATE; OR

10 (II) TO THE CUSTODY OF A LOCAL DEPARTMENT OR THE
11 DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND

12 (2) ORDER THE CHILD AND THE CHILD'S PARENT, GUARDIAN, OR
13 CUSTODIAN TO PARTICIPATE IN REHABILITATIVE SERVICES THAT ARE IN THE BEST
14 INTEREST OF THE CHILD AND THE FAMILY.

15 (C) IF THE ALLEGATIONS IN THE PETITION ARE SUSTAINED AGAINST A
16 PARENT WHO IS THE LEGAL OR PHYSICAL CUSTODIAN OF THE CHILD, THE COURT
17 MAY FIND THAT THE CHILD IS A CINA EVEN IF THERE IS ANOTHER PARENT WHO IS
18 OTHERWISE WILLING AND ABLE TO CARE FOR THE CHILD.

19 (D) IF THE DISPOSITION REMOVES A CHILD FROM THE CHILD'S HOME, THE
20 ORDER SHALL:

21 (1) SET FORTH SPECIFIC FINDINGS OF FACT AS TO THE
22 CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL; AND

23 (2) INFORM THE PARENTS, CUSTODIAN, OR GUARDIAN, IF ANY, THAT
24 THE AGENCY OR DEPARTMENT TO WHICH THE CHILD IS COMMITTED MAY CHANGE
25 THE PERMANENCY PLAN OF REUNIFICATION TO ANOTHER PERMANENCY PLAN,
26 WHICH MAY INCLUDE THE FILING OF A PETITION FOR TERMINATION OF PARENTAL
27 RIGHTS IF THE PARENTS:

28 (I) HAVE NOT MADE SIGNIFICANT PROGRESS TO REMEDY THE
29 CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL AS SPECIFIED IN THE
30 COURT ORDER; AND

31 (II) ARE UNWILLING OR UNABLE TO GIVE THE CHILD PROPER CARE
32 AND ATTENTION WITHIN A REASONABLE PERIOD OF TIME.

33 (E) A GUARDIAN APPOINTED UNDER THIS SECTION HAS NO CONTROL OVER
34 THE PROPERTY OF THE CHILD UNLESS THE COURT EXPRESSLY GRANTS THAT
35 AUTHORITY.

1 (F) THE COURT MAY NOT COMMIT A CHILD FOR INPATIENT CARE AND
2 TREATMENT IN A PSYCHIATRIC FACILITY UNLESS THE COURT FINDS ON THE
3 RECORD BASED ON CLEAR AND CONVINCING EVIDENCE THAT:

4 (1) THE CHILD HAS A MENTAL DISORDER;

5 (2) THE CHILD NEEDS INPATIENT MEDICAL CARE OR TREATMENT FOR
6 THE PROTECTION OF THE CHILD OR OTHERS;

7 (3) THE CHILD IS UNABLE OR UNWILLING TO BE VOLUNTARILY
8 ADMITTED TO SUCH FACILITY; AND

9 (4) THERE IS NO LESS RESTRICTIVE FORM OF INTERVENTION
10 AVAILABLE THAT IS CONSISTENT WITH THE CHILD'S CONDITION AND WELFARE.

11 (G) THE COURT MAY NOT COMMIT A CHILD TO THE CUSTODY OF THE
12 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR INPATIENT CARE AND
13 TREATMENT IN A FACILITY FOR THE DEVELOPMENTALLY DISABLED UNLESS THE
14 COURT FINDS ON THE RECORD BASED ON CLEAR AND CONVINCING EVIDENCE THAT:

15 (1) THE CHILD IS DEVELOPMENTALLY DISABLED;

16 (2) THE CONDITION IS OF SUCH A NATURE THAT FOR THE ADEQUATE
17 CARE OR PROTECTION OF THE CHILD OR OTHERS, THE CHILD NEEDS IN-RESIDENCE
18 CARE OR TREATMENT; AND

19 (3) THERE IS NO LESS RESTRICTIVE FORM OF CARE AND TREATMENT
20 AVAILABLE THAT IS CONSISTENT WITH THE CHILD'S WELFARE AND SAFETY.

21 (H) (1) EACH COMMITMENT ORDER ISSUED UNDER SUBSECTION (F) OR (G)
22 OF THIS SECTION SHALL REQUIRE THE CUSTODIAN TO FILE PROGRESS REPORTS
23 WITH THE COURT AT INTERVALS NO GREATER THAN EVERY 6 MONTHS DURING THE
24 LIFE OF THE ORDER. THE CUSTODIAN SHALL PROVIDE EACH PARTY OR ATTORNEY OF
25 RECORD WITH A COPY OF EACH REPORT WHICH SHALL BE CONSIDERED AT THE
26 NEXT SCHEDULED HEARING. AFTER THE FIRST 6 MONTHS OF THE COMMITMENT
27 AND AT 6-MONTH INTERVALS THEREAFTER, ON THE REQUEST OF ANY PARTY, THE
28 CUSTODIAN, OR THE FACILITY, THE COURT SHALL HOLD A HEARING TO DETERMINE
29 WHETHER THE STANDARD IN SUBSECTION (F) OR (G) OF THIS SECTION CONTINUES
30 TO BE MET.

31 (2) IF AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER §
32 10-706 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD NO
33 LONGER MEETS THE STANDARDS IN SUBSECTION (F) OF THIS SECTION, THE COURT
34 SHALL GRANT A HEARING TO REVIEW THE COMMITMENT ORDER. THE COURT MAY
35 GRANT A HEARING AT ANY OTHER TIME TO DETERMINE WHETHER THE STANDARD
36 IN SUBSECTION (F) OF THIS SECTION CONTINUES TO BE MET.

37 (3) IF AN INDIVIDUALIZED PLAN OF HABILITATION DEVELOPED UNDER
38 § 7-1006 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD NO
39 LONGER MEETS THE STANDARDS IN SUBSECTION (G) OF THIS SECTION, THE COURT

1 SHALL GRANT A HEARING TO REVIEW THE COMMITMENT ORDER. THE COURT MAY
2 GRANT A HEARING AT ANY OTHER TIME TO DETERMINE WHETHER THE STANDARD
3 IN SUBSECTION (G) OF THIS SECTION CONTINUES TO BE MET.

4 (I) AN ORDER VESTING LEGAL CUSTODY OF A CHILD IN AN INDIVIDUAL,
5 AGENCY, OR INSTITUTION IS EFFECTIVE FOR AN INDETERMINATE PERIOD OF TIME,
6 BUT IS NOT EFFECTIVE AFTER THE CHILD BECOMES 21 YEARS OLD.

7 (J) AFTER GIVING THE PARENT A REASONABLE OPPORTUNITY TO BE HEARD,
8 AND DETERMINING THE INCOME OF THE PARENT, THE COURT MAY ORDER EITHER
9 PARENT OR BOTH PARENTS TO PAY A SUM IN THE AMOUNT THE COURT DIRECTS TO
10 COVER WHOLLY OR PARTLY THE SUPPORT OF THE CHILD UNDER THIS SUBTITLE.

11 COMMITTEE NOTE: Subsections (a)(1) and (2), (b), and (e) through (j) of this
12 section were derived from former §§ 3-820(a)(1) and (3), (c)(1), (e), (h), and
13 (i), 3-825(a), and 3-830 of this article. Subsections (a)(3), (c), and (d) were
14 added.

15 The Committee is aware that there is a school of thought that the
16 determination of the CINA finding should be made at the adjudication
17 hearing.

18 Subsection (f) of this section was revised to encompass commitments to all
19 psychiatric facilities.

20 3-820.

21 (A) THE COURT ON ITS OWN MOTION, OR ON APPLICATION OF A PARTY, MAY
22 ISSUE AN APPROPRIATE ORDER DIRECTING, RESTRAINING, OR OTHERWISE
23 CONTROLLING THE CONDUCT OF A PERSON WHO IS PROPERLY BEFORE THE COURT,
24 IF THE COURT FINDS THAT THE CONDUCT:

25 (1) IS OR MAY BE DETRIMENTAL OR HARMFUL TO A CHILD OVER WHOM
26 THE COURT HAS JURISDICTION;

27 (2) WILL TEND TO DEFEAT THE EXECUTION OF AN ORDER OR
28 DISPOSITION MADE OR TO BE MADE; OR

29 (3) WILL ASSIST IN THE REHABILITATION OF, OR IS NECESSARY FOR,
30 THE WELFARE OF THE CHILD.

31 (B) SUBSECTION (A) OF THIS SECTION SHALL APPLY TO A PERSON NOT A
32 PARTY TO THE PETITION IF THE PERSON IS GIVEN:

33 (1) NOTICE OF THE PROPOSED ORDER CONTROLLING THE PERSON'S
34 CONDUCT; AND

35 (2) THE OPPORTUNITY TO CONTEST THE ENTRY OF THE PROPOSED
36 ORDER.

1 (C) AN ORDER ISSUED UNDER THIS SECTION IS ENFORCEABLE UNDER TITLE
2 15, CHAPTER 200 OF THE MARYLAND RULES.

3 COMMITTEE NOTE: Subsection (a) of this section was derived from former §
4 3-827 of this article.

5 Subsection (b) of this section was added to state expressly that this section
6 may apply to nonparties if the specified due process rights are followed.

7 [3-837.1.] 3-821.

8 (a) (1) At each [child in need of assistance] CINA hearing, the court shall
9 inquire into, and make findings of fact on the record [regarding,] AS TO the identity
10 and current address of each parent of each child before the court.

11 (2) In carrying out [the requirements of] paragraph (1) of this
12 subsection, the court shall:

13 (i) Inform [the] ALL parties present of their continuing obligation
14 to assist the court in identifying and locating each parent of each child;

15 (ii) Inform the parents present of their CONTINUING obligation to
16 keep the clerk of the court apprised of their current address;

17 (iii) Inform the parents present of available [processes and
18 procedures for establishing] MEANS TO ESTABLISH paternity, if not yet established;
19 and

20 (iv) If appropriate, refer the parents to the appropriate support
21 enforcement agency [for establishment of] TO ESTABLISH paternity and support.

22 [3-837.

23 (a) (B) Each parent of a child who is the subject of a [child in need of
24 assistance] CINA proceeding shall notify the [juvenile] court and the local
25 department [of social services] of all changes in the parent's address.

26 [(b)] (C) The [clerk's office] CLERK of the [juvenile] court shall [maintain]
27 KEEP a listing of [the addresses] EVERY ADDRESS provided by [each] A parent of a
28 child who is the subject of a [child in need of assistance] CINA proceeding.

29 [(c)] (D) On request of a local department [of social services], the clerk's office
30 shall disclose to the local department [the last known] ALL addresses[, and any other
31 addresses] listed BY A PARENT OF A CINA within the preceding 9 months, [of the
32 parents of a child adjudicated in need of assistance,] for [purposes] THE PURPOSE of
33 attempting notification of a petition for guardianship with the right to consent to
34 adoption or long-term care short of adoption.

35 [3-837.1.

36 (b) (E) The court may [order]:

1 (1) ORDER a parent or putative parent TO:

2 [(1)] (I) [To file an application] APPLY for child support services with
3 the appropriate support enforcement agency; and

4 [(2)] (II) [To cooperate] COOPERATE with the appropriate [support
5 enforcement] agency [in the establishment of] TO ESTABLISH paternity and child
6 support[.]; AND

7 (2) MAKE A FINDING OF PATERNITY IN ACCORDANCE WITH TITLE 5,
8 SUBTITLE 10, PART VI OF THE FAMILY LAW ARTICLE.

9 [(c)] (F) [A circuit] ANY court may consider evidence taken and findings
10 made on the record in a [child in need of assistance] CINA hearing and in [any] A
11 paternity, CUSTODY, child support, or guardianship proceeding regarding that child
12 OR A SIBLING OF A CHILD.

13 COMMITTEE NOTE: This section was derived by combining former §§ 3-837
14 and 3-837.1 of this article.

15 The provisions for use of a record were broadened to include additional
16 courts, types of proceedings, and siblings.

17 [3-826.1.] 3-822.

18 (a) (1) The court shall hold a permanency planning hearing:

19 (i) No later than 11 months after a child IN A CINA PROCEEDING
20 enters an out-of-home placement, as defined in § 5-501 of the Family Law Article,
21 [in the case of a child alleged to be in need of assistance,] to determine the
22 permanency plan for [each] THE child committed under [§ 3-820(c)(1)(ii)] § 3-819(B)
23 of this subtitle; or

24 (ii) Within 30 days after the court [determines] FINDS that
25 reasonable efforts to reunify [the] A child with the child's [natural] parent or
26 guardian are not required based on a finding that [one of the circumstances] A
27 CIRCUMSTANCE enumerated in [§ 3-812.1] § 3-812 of this subtitle has occurred.

28 (2) For purposes of this section, a child shall be considered to have
29 entered an out-of-home placement 30 days after the child is placed into an
30 out-of-home placement.

31 (3) If all parties agree, [the] A permanency planning hearing may be
32 held on the same day as the reasonable efforts hearing.

33 (b) (1) [Upon] ON the written request of [any] A party or on its own motion,
34 the court may schedule a hearing at any earlier time to determine a permanency plan
35 or to review the implementation of a permanency plan for any child committed
36 [pursuant to § 3-820] UNDER § 3-819 of this subtitle.

1 (2) [The] A written request for review shall state the reason for the
2 request and [any issues] EACH ISSUE to be raised.

3 (c) AT LEAST 10 DAYS BEFORE THE PERMANENCY PLANNING HEARING, THE
4 LOCAL DEPARTMENT SHALL PROVIDE ALL PARTIES AND THE COURT WITH A COPY OF
5 THE LOCAL DEPARTMENT'S PERMANENCY PLAN FOR THE CHILD.

6 (D) At [the] A permanency planning hearing [for each child in placement],
7 the court shall:

8 (1) Determine the CHILD'S permanency plan [for the child, including
9 whether the child should be], WHICH MAY BE:

10 (i) [Returned to] REUNIFICATION WITH the parent or guardian;

11 (ii) [Placed] PLACEMENT with relatives [to whom adoption] FOR:

12 1. ADOPTION; or

13 2. guardianship [is granted];

14 (iii) [Placed for] adoption BY A NONRELATIVE;

15 (iv) [Emancipated] GUARDIANSHIP BY A NONRELATIVE;

16 (v) [Because of the child's special needs or circumstances,
17 continued] CONTINUATION in A SPECIFIED placement on a permanent [or
18 long-term] basis BECAUSE OF THE CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES; or

19 (vi) [Because of the child's special needs or circumstances,
20 continued] CONTINUATION in placement for a specified period BECAUSE OF THE
21 CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES; [or] AND

22 (2) For a child who has attained the age of 16, determine the services
23 needed to assist the child to make the transition from placement to independent
24 living.

25 [(d)] (E) The court may not order a child to be continued in placement under
26 subsection [(c)(1)(v) or (vi)] (D)(1)(V) OR (VI) of this section unless [it] THE COURT
27 finds that the agency to which the child is committed has documented a compelling
28 reason for determining that it would not be in the best interest of the child to:

29 (1) Return home;

30 (2) Be referred for termination of parental rights; or

31 (3) Be placed for adoption or guardianship with a specified and
32 appropriate relative or legal guardian willing to care for the child.

1 [(e)] (F) [For] IN THE CASE OF a child FOR whom the court determines [shall
2 be placed for] THAT THE PLAN SHOULD BE CHANGED TO adoption under subsection
3 [(c)(1)(iii)] (D)(1)(III) of this section, THE COURT SHALL:

4 (1) [The court shall order a party supporting a plan of adoption, who is
5 otherwise permitted] ORDER THE LOCAL DEPARTMENT to file a petition for
6 guardianship in accordance with Title 5, Subtitle 3 of the Family Law Article[, to file
7 a petition] within 30 days OR, IF THE LOCAL DEPARTMENT DOES NOT SUPPORT THE
8 PLAN, WITHIN 60 DAYS; and

9 (2) [The court shall schedule the termination of parental rights]
10 SCHEDULE A TPR hearing [in lieu] INSTEAD of the next 6-month review hearing.

11 [(f)] (G) (1) (i) Except as provided in subparagraph (ii) of this paragraph,
12 the court shall conduct a hearing to review the permanency plan [no less frequently
13 than] AT LEAST every 6 months until commitment is rescinded.

14 (ii) The court [is] NEED not [required to] hold a review hearing
15 every 6 months [if] AFTER the court[, at the permanency planning hearing or at a
16 subsequent review hearing,] grants guardianship of the child to a relative or other
17 person, or determines that the child shall be continued in [permanent foster care or
18 kinship care] OUT-OF-HOME PLACEMENT with a specific caregiver who agrees to
19 care for the child on a permanent basis.

20 (2) At the review hearing, the court shall:

21 (i) Determine the continuing necessity for and appropriateness of
22 the commitment;

23 (ii) Determine the extent of compliance with the permanency plan;

24 (iii) Determine the extent of progress that has been made toward
25 alleviating or mitigating the causes necessitating commitment;

26 (iv) Project a reasonable date by which a child in placement may be
27 returned home or placed [for adoption] IN A PREADOPTIVE HOME, or PLACED UNDER
28 A legal guardianship;

29 (v) [Change the permanency plan if a change in the permanency
30 plan would be in the child's best interest; and

31 (vi)] Evaluate the safety of the child and take necessary measures to
32 protect the child; AND

33 (VI) CHANGE THE PERMANENCY PLAN IF A CHANGE IN THE
34 PERMANENCY PLAN WOULD BE IN THE CHILD'S BEST INTEREST.

35 (3) Every reasonable effort shall be made to effectuate a permanent
36 placement for the child within 24 months from the date of initial placement.

1 [(g)] (H) (1) In this subsection, "preadoptive parent" means an individual
2 [approved as an adoptive parent by] WHOM a child placement agency, as defined in §
3 5-301 of the Family Law Article, APPROVES to adopt a child who has been placed in
4 the individual's home for adoption before the [granting of a] final decree of adoption.

5 (2) [The] IF PRACTICABLE, THE local department shall give at least 7
6 [days] DAYS' notice[, if practicable,] before any hearing conducted under this section
7 to the child's foster parent or a preadoptive parent or relative providing care for the
8 child.

9 (3) The foster parent or a preadoptive parent or relative providing care
10 for the child shall be given the opportunity to be heard at the hearing.

11 (4) A foster parent or a preadoptive parent or relative providing care for
12 the child may not be considered to be a party solely on the basis of the right to notice
13 and opportunity to be heard provided under this subsection.

14 [(h)] (I) At a review hearing under this section, the court shall consider any
15 written report of a local board of review of foster care required under § 5-545 of the
16 Family Law Article.

17 COMMITTEE NOTE: Subsection (c) of this section was amended to be
18 consistent with proposed § 3-825 of this article.

19 The commitments for which permanency planning hearings are required
20 have been broadened.

21 [3-822.] 3-823.

22 The court may order emergency medical, dental or surgical treatment of a child
23 alleged to [be suffering from] HAVE a condition or illness [which] THAT, in the
24 opinion of a licensed physician or dentist, as the case may be, requires immediate
25 treatment, if the child's parent, guardian, or custodian is not available or, without
26 good cause, refuses to consent to the treatment. A CHILD MAY BE PLACED IN AN
27 EMERGENCY FACILITY ON AN EMERGENCY BASIS UNDER TITLE 10, SUBTITLE 6, PART
28 IV OF THE HEALTH - GENERAL ARTICLE.

29 COMMITTEE NOTE: This section was derived from former §§ 3-820(g) and
30 3-822 of this article.

31 3-824.

32 (A) A CHILD MAY NOT BE DETAINED AT, OR COMMITTED OR TRANSFERRED TO,
33 A PENAL INSTITUTION OR OTHER FACILITY USED PRIMARILY FOR THE
34 CONFINEMENT OF ADULTS CHARGED WITH OR CONVICTED OF A CRIME, UNLESS THE
35 CHILD HAS BEEN CHARGED AS AN ADULT WITH A CRIMINAL ACT.

36 (B) A CHILD WHO IS NOT DELINQUENT MAY NOT BE COMMITTED OR
37 TRANSFERRED TO A FACILITY USED FOR THE CONFINEMENT OF DELINQUENT
38 CHILDREN.

1 (C) UNLESS AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER §
2 10-706 OF THE HEALTH - GENERAL ARTICLE INDICATES OTHERWISE, A CHILD MAY
3 NOT BE:

4 (1) COMMITTED OR TRANSFERRED TO ANY PUBLIC OR PRIVATE
5 FACILITY OR INSTITUTION UNLESS THE CHILD IS PLACED IN ACCOMMODATIONS
6 THAT ARE SEPARATE FROM ADULTS WHO ARE CONFINED TO THAT FACILITY OR
7 INSTITUTION; OR

8 (2) TREATED IN ANY GROUP WITH ADULTS.

9 COMMITTEE NOTE: This section was derived from former § 3-823 of this
10 article.

11 3-825.

12 (A) UNLESS THE COURT DIRECTS OTHERWISE, A LOCAL DEPARTMENT SHALL
13 PROVIDE ALL PARTIES WITH A WRITTEN REPORT AT LEAST 10 DAYS BEFORE ANY
14 SCHEDULED DISPOSITION, PERMANENCY PLANNING, OR REVIEW HEARING UNDER
15 § 3-819 OR § 3-825 OF THIS SUBTITLE.

16 (B) IF A CHILD IS COMMITTED TO AN INDIVIDUAL OR TO A PUBLIC OR PRIVATE
17 AGENCY OR INSTITUTION UNDER THIS SUBTITLE, THE COURT MAY ORDER THE
18 CUSTODIAN TO FILE PERIODIC WRITTEN PROGRESS REPORTS, WITH COPIES SENT TO
19 ALL PARTIES.

20 COMMITTEE NOTE: Subsection (a) of this section was added to be consistent
21 with proposed § 3-838(c) of this article.

22 Subsection (b) of this section was derived from former § 3-826 of this
23 article.

24 3-826.

25 (A) (1) ALL COURT RECORDS UNDER THIS SUBTITLE PERTAINING TO A
26 CHILD SHALL BE CONFIDENTIAL AND THEIR CONTENTS MAY NOT BE DIVULGED, BY
27 SUBPOENA OR OTHERWISE, EXCEPT BY ORDER OF THE COURT ON GOOD CAUSE
28 SHOWN.

29 (2) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND THE USE OF
30 A COURT RECORD BY:

31 (I) PERSONNEL OF THE COURT;

32 (II) A PARTY;

33 (III) COUNSEL FOR A PARENT;

34 (IV) A COURT-APPOINTED SPECIAL ADVOCATE FOR THE CHILD; OR

1 (V) AUTHORIZED PERSONNEL OF THE SOCIAL SERVICES
2 ADMINISTRATION AND LOCAL DEPARTMENTS IN ORDER TO CONDUCT A CHILD
3 ABUSE OR NEGLECT INVESTIGATION OR TO COMPLY WITH REQUIREMENTS IMPOSED
4 UNDER TITLE IV-E OF THE SOCIAL SECURITY ACT.

5 (3) INFORMATION OBTAINED FROM A COURT RECORD IS SUBJECT TO
6 THE PROVISIONS OF ARTICLE 88A, § 6 OF THE CODE.

7 (B) (1) ON ITS OWN MOTION OR ON PETITION, AND FOR GOOD CAUSE
8 SHOWN, THE COURT:

9 (I) MAY ORDER THE COURT RECORDS OF A CHILD SEALED; AND

10 (II) SHALL ORDER THEM SEALED AFTER THE CHILD HAD REACHED
11 21 YEARS OF AGE.

12 (2) IF SEALED, THE COURT RECORDS OF A CHILD MAY NOT BE OPENED,
13 FOR ANY PURPOSE, EXCEPT BY ORDER OF THE COURT ON GOOD CAUSE SHOWN.

14 COMMITTEE NOTE: This section was derived from former § 3-828(b) and (c)
15 of this article and was revised to permit parties and limited relevant
16 persons to have access to court records.

17 3-827.

18 (A) AN ADULT MAY NOT WILLFULLY CONTRIBUTE TO, ENCOURAGE, CAUSE OR
19 TEND TO CAUSE ANY ACT, OMISSION, OR CONDITION THAT RENDERS A CHILD IN
20 NEED OF ASSISTANCE.

21 (B) A PERSON MAY BE CONVICTED UNDER THIS SECTION EVEN IF THE CHILD
22 IS NOT ADJUDICATED AS A CINA.

23 (C) AN ADULT WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF
24 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,500
25 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

26 COMMITTEE NOTE: This section is derived from former § 3-831 of this
27 article, without substantive change.

28 The omission of the sentence granting the court authority to suspend
29 sentence, etc. is not intended to absolve the court of such authority. The
30 Committee deemed it unnecessary to state here because the court already
31 has the powers to suspend sentence, etc. The court may suspend sentence
32 and place the adult on probation subject to the terms and conditions it
33 deems to be in the best interests of the child.

34 [3-833.] 3-828.

35 A GOVERNING BODY OF A COUNTY MAY CREATE A juvenile court committee
36 [may be created in each county,] to serve as an advisory body to the [juvenile] court

1 for the county[. The] AND SHALL DETERMINE THE composition and members of the
2 committee [shall be determined by the governing body of the county].

3 [3-834.1.] 3-829.

4 (a) (1) In this section[,] the following words have the meanings indicated.

5 (2) "Advocate" or "C.A.S.A." means a Court-Appointed Special Advocate.

6 (3) "Program" means a court-appointed special advocate service that
7 [has been established] IS CREATED in a county [or Baltimore City] with the support
8 of the [juvenile] court for that [jurisdiction for the purpose of providing] COUNTY TO
9 PROVIDE trained volunteers [appointed by] WHOM the court MAY APPOINT to:

10 (i) Provide the court with background information to aid [the
11 court] IT in making decisions in the child's best interest; and

12 (ii) Ensure that the child is provided appropriate case planning and
13 services.

14 (b) (1) There is a Court-Appointed Special Advocate Program.

15 (2) The purpose of the Program is to provide volunteers whose primary
16 purpose is to [insure] ENSURE that children who are the subject of [this] A CINA
17 proceeding are provided with appropriate service and case planning that is in their
18 best interest.

19 (3) The [Program shall be administered by the] Administrative Office of
20 the Courts.

21 (I) SHALL ADMINISTER THE PROGRAM;

22 [(4)] (II) [The Administrative Office of the Courts shall] SHALL report
23 annually to the Chief Judge of the Court of Appeals and, subject to § 2-1246 of the
24 State Government Article, to the General Assembly regarding the operation of the
25 Program[.]; AND

26 [(5)] (III) [The Administrative Office of the Courts may] MAY adopt rules
27 governing the implementation and operation of the Program including [but not
28 limited to] FUNDING, training, selection, and supervision of volunteers.

29 (c) [(1)] The Governor may include funds in the budget to carry out the
30 provisions of this section.

31 [(2)] Any State funds available for this Program shall be allocated to the
32 counties on a 50 percent cost sharing basis.]

33 (d) An advocate or a member of the administrative staff of the Program is not
34 liable for [acts or omissions] AN ACT OR OMISSION in providing services or
35 performing [duties] A DUTY on behalf of the Program, unless the act or omission
36 constitutes reckless, willful, or wanton misconduct or intentionally tortious conduct.

1 COMMITTEE NOTE: This section removes the requirement of local matching
2 funds.

3 Subtitle [8.] 8A. Juvenile Causes -- CHILDREN IN NEED OF SUPERVISION;
4 DELINQUENTS.

5 [3-801.] 3-8A-01.

6 (a) In this subtitle[,] the following words have the meanings indicated, unless
7 the context of their use indicates otherwise.

8 (b) "Adjudicatory hearing" means a hearing to determine whether the
9 allegations in the petition, other than allegations that the child requires the court's
10 assistance, treatment, guidance or rehabilitation, are true.

11 (c) "Adult" means [a person] AN INDIVIDUAL who is AT LEAST 18 years old or
12 older.

13 (d) "Child" means [a person] AN INDIVIDUAL under the age of 18 years.

14 [(e) "Child in need of assistance" is a child who requires the assistance of the
15 court because:

16 (1) The child is mentally handicapped or is not receiving ordinary and
17 proper care and attention, and

18 (2) The child's parents, guardian, or custodian are unable or unwilling to
19 give proper care and attention to the child and the child's problems provided, however,
20 a child shall not be deemed to be in need of assistance for the sole reason that the
21 child is being furnished nonmedical remedial care and treatment recognized by State
22 law.]

23 [(f)] (E) "Child in need of supervision" is a child who requires guidance,
24 treatment, or rehabilitation and:

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

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

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

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

30 [(g)] (F) "Citation" means the written form issued by a police officer which
31 serves as the initial pleading against a child for a violation and which is adequate
32 process to give the court jurisdiction over the person cited.

33 [(h)] (G) "Commit" means to transfer legal custody.

34 [(i)] (H) "Court" means [the]:

1 (1) A circuit court [of] FOR a county [or Baltimore City] sitting as the
2 juvenile court[. In]; OR

3 (2) IN Montgomery County, [it means] the District Court sitting as the
4 juvenile court and following the applicable rules of the circuit court.

5 [(j)] (I) "Custodian" means a person or agency to whom legal custody of a
6 child has been given by order of the court, other than the child's parent or legal
7 guardian.

8 [(k)] (J) "Delinquent act" means an act which would be a crime if committed
9 by an adult.

10 [(l)] (K) "Delinquent child" is a child who has committed a delinquent act and
11 requires guidance, treatment, or rehabilitation.

12 [(m)] (L) "Detention" means the temporary care of children who, pending court
13 disposition, require secure custody for the protection of themselves or the community,
14 in physically restricting facilities.

15 [(n)] (M) "Disposition hearing" means a hearing to determine:

16 (1) Whether a child needs or requires the court's assistance, guidance,
17 treatment or rehabilitation; and if so

18 (2) The nature of the assistance, guidance, treatment or rehabilitation.

19 [(o)] (N) "Intake officer" means the person assigned to the court by the
20 Department of Juvenile Justice to provide the intake services set forth in this
21 subtitle.

22 [(p)] "Local department" means the local department of social services for the
23 jurisdiction in which the court is located.

24 (q) "Mentally handicapped child" means a child who is or may be mentally
25 retarded or mentally ill.]

26 [(r)] (O) "Party" includes a child who is the subject of a petition, the child's
27 parent, guardian, or custodian, the petitioner and an adult who is charged under [§
28 3-831] § 3-8A-29 of this subtitle.

29 [(s)] (P) (1) "Shelter care" means the temporary care of children in
30 physically unrestricting facilities.

31 (2) "Shelter care" does not mean care in a State mental health facility.

32 [(t)] (Q) (1) "Victim" means a person who suffers direct or threatened
33 physical, emotional, or financial harm as a result of a delinquent act.

34 (2) "Victim" includes a family member of a minor, incompetent, or a
35 homicide victim.

1 (3) "Victim" includes, if the victim is not an individual, the victim's agent
2 or designee.

3 [(u)] (R) "Violation" means a violation of § 400, § 400A, § 400B, § 401, or §
4 405A of Article 27 of the Code and § 26-103 of the Education Article for which a
5 citation is issued.

6 [(v)] (S) "Witness" means any person who is or expects to be a State's witness.
7 [3-802.] 3-8A-02.

8 (a) The purposes of this subtitle are:

9 (1) To ensure that the juvenile justice system balances the following
10 objectives for children who have committed delinquent acts:

11 (i) Public safety and the protection of the community;

12 (ii) Accountability of the child to the victim and the community for
13 offenses committed; and

14 (iii) Competency and character development to assist children in
15 becoming responsible and productive members of society;

16 (2) To hold parents of children found to be delinquent responsible for the
17 child's behavior and accountable to the victim and the community;

18 (3) To hold parents of children found to be delinquent or in need of
19 [assistance or] supervision responsible, where possible, for remedying the
20 circumstances that required the court's intervention;

21 (4) To provide for the care, protection, and wholesome mental and
22 physical development of children coming within the provisions of this subtitle; and to
23 provide for a program of treatment, training, and rehabilitation consistent with the
24 child's best interests and the protection of the public interest;

25 (5) To conserve and strengthen the child's family ties and to separate a
26 child from his parents only when necessary for his welfare or in the interest of public
27 safety;

28 (6) If necessary to remove a child from his home, to secure for him
29 custody, care, and discipline as nearly as possible equivalent to that which should
30 have been given by his parents; and

31 (7) To provide judicial procedures for carrying out the provisions of this
32 subtitle.

33 (b) This subtitle shall be liberally construed to effectuate these purposes.

1 [3-804.] 3-8A-03.

2 (a) [The] IN ADDITION TO ANY JURISDICTION UNDER SUBTITLE 8 OF THIS
3 TITLE, THE court has exclusive original jurisdiction over:

4 (1) A child WHO IS alleged to be delinquent[,] OR in need of
5 supervision[, in need of assistance] or who has received a citation for a violation; and

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

9 (b) The court has exclusive original jurisdiction over proceedings]

10 (2) PROCEEDINGS arising under the Interstate Compact on Juveniles.

11 [(c)] (B) The court has concurrent jurisdiction over proceedings against an
12 adult for the violation of [§ 3-831] § 3-8A-29 of this subtitle. However, the court may
13 waive its jurisdiction under this subsection upon its own motion or upon the motion of
14 any party to the proceeding, if charges against the adult arising from the same
15 incident are pending in the criminal court. Upon motion by either the State's Attorney
16 or the adult charged under [§ 3-831] § 3-8A-29 OF THIS SUBTITLE, the court shall
17 waive its jurisdiction, and the adult shall be tried in the criminal court according to
18 the usual criminal procedure.

19 [(d)] (C) The jurisdiction of the court is concurrent with that of the District
20 Court in any criminal case arising under the compulsory public school attendance
21 laws of this State.

22 [(e)] (D) The court does not have jurisdiction over:

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

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

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

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

- 1 (i) Abduction;
- 2 (ii) Kidnapping;
- 3 (iii) Second degree murder;
- 4 (iv) Manslaughter, except involuntary manslaughter;
- 5 (v) Second degree rape;
- 6 (vi) Robbery with a dangerous or deadly weapon;
- 7 (vii) Second degree sexual offense in violation of Article 27, §
8 464A(a)(1) of the Code;
- 9 (viii) Third degree sexual offense in violation of Article 27, §
10 464B(a)(1) of the Code;
- 11 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
12 446, or § 481C of the Code;
- 13 (x) Using, wearing, carrying, or transporting of firearm during and
14 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 15 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 16 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
17 of the Code;
- 18 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
19 the Code;
- 20 (xiv) Attempted murder in the second degree in violation of Article
21 27, § 411A of the Code;
- 22 (xv) Attempted rape or attempted sexual offense in the second
23 degree under Article 27, § 464F of the Code; or
- 24 (xvi) Attempted robbery with a dangerous or deadly weapon under
25 Article 27, § 488 of the Code; or
- 26 (5) A child who previously has been convicted as an adult of a felony and
27 is subsequently alleged to have committed an act that would be a felony if committed
28 by an adult, unless an order removing the proceeding to the court has been filed
29 under Article 27, § 594A of the Code.
- 30 [(f)] (E) If the child is charged with two or more violations of the Maryland
31 Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising
32 out of the same incident and which would result in the child being brought before both
33 the court and a court exercising criminal jurisdiction, the court has exclusive
34 jurisdiction over all of the charges.

1 3-8A-04.

2 THE PROVISIONS OF §§ 3-806 AND 3-807 OF THIS TITLE GOVERN JUDGES AND
3 MASTERS UNDER THIS SUBTITLE.

4 [3-805.] 3-8A-05.

5 (a) If a person is alleged to be delinquent, the age of the person at the time the
6 alleged delinquent act was committed controls the determination of jurisdiction under
7 this subtitle.

8 (b) In all other cases UNDER THIS SUBTITLE, the age of the child at the time
9 the petition is filed controls the determination of jurisdiction under this subtitle.

10 (c) In a delinquency proceeding there is no presumption of incapacity as a
11 result of infancy for a child who is at least 7 years old.

12 [3-817.] 3-8A-06.

13 (a) The court may waive the exclusive jurisdiction conferred by [§ 3-804] §
14 3-8A-03 OF THIS SUBTITLE with respect to a petition alleging delinquency by:

15 (1) A child who is 15 years old or older; or

16 (2) A child who has not reached his 15th birthday, but who is charged
17 with committing an act which if committed by an adult, would be punishable by death
18 or life imprisonment.

19 (b) The court may not waive its jurisdiction until after it has conducted a
20 waiver hearing, held prior to an adjudicatory hearing and after notice has been given
21 to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to
22 determine whether the court should waive its jurisdiction.

23 (c) The court may not waive its jurisdiction unless it determines, from a
24 preponderance of the evidence presented at the hearing, that the child is an unfit
25 subject for juvenile rehabilitative measures. For purposes of determining whether to
26 waive its jurisdiction, the court shall assume that the child committed the delinquent
27 act alleged.

28 (d) In making its determination, the court shall consider the following criteria
29 individually and in relation to each other on the record:

30 (1) Age of the child;

31 (2) Mental and physical condition of the child;

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

34 (4) The nature of the offense and the child's alleged participation in it;
35 and

1 (5) The public safety.

2 (e) If the jurisdiction is waived, the court shall order the child held for trial
3 under the regular procedures of the court which would have jurisdiction over the
4 offense if committed by an adult. The petition alleging delinquency shall be
5 considered a charging document for purposes of detaining the child pending a bail
6 hearing.

7 (f) An order waiving jurisdiction is interlocutory.

8 (g) If the court has once waived its jurisdiction with respect to a child in
9 accordance with this section, and that child is subsequently brought before the court
10 on another charge of delinquency, the court may waive its jurisdiction in the
11 subsequent proceeding after summary review.

12 [3-806.] 3-8A-07.

13 (a) If the court obtains jurisdiction over a child UNDER THIS SUBTITLE, that
14 jurisdiction continues until that person reaches 21 years of age unless terminated
15 sooner.

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

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

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

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

30 (2) The custody order is modified by an order of any other court with
31 jurisdiction.]

32 [3-807.]

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

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

4 [3-808.] 3-8A-08.

5 (a) If a petition alleges that a child is [in need of assistance or] in need of
6 supervision, the petition shall be filed in the county where the child resides.

7 (b) If delinquency or violation of [§ 3-831] § 3-8A-29 OF THIS SUBTITLE is
8 alleged or if a citation is issued, the petition, if any, or the citation shall be filed in the
9 county where the alleged act occurred subject to transfer as provided in [§ 3-809] §
10 3-8A-09 OF THIS SUBTITLE.

11 (c) If the alleged delinquent act is escape or attempted escape from a training
12 school or similar facility operated by the Department of Juvenile Justice, the petition,
13 if any, shall be filed and the adjudicatory hearing held in the county where the alleged
14 escape or attempted escape occurred unless the court in the county of the child's
15 domicile requests a transfer. For purposes of the disposition hearing, proceedings may
16 be transferred as provided in [§ 3-809] § 3-8A-09 OF THIS SUBTITLE to the court
17 exercising jurisdiction over the child at the time of the alleged act.

18 [3-809.] 3-8A-09.

19 (a) (1) If a petition or citation is filed in a county other than the county
20 where the child is living or domiciled, the court on its own motion or on motion of a
21 party, may transfer the proceedings to the county of residence or domicile at any time
22 prior to final termination of jurisdiction, except that the proceedings may not be
23 transferred until after an adjudicatory hearing if the allegation is escape or
24 attempted escape from a training school or similar facility operated by the
25 Department of Juvenile Justice.

26 (2) In its discretion, the court to which the case is transferred may take
27 further action.

28 (b) Every document, social history, and record on file with the clerk of THE
29 court pertaining to the case shall accompany the transfer.

30 [3-810.] 3-8A-10.

31 (A) THIS SECTION DOES NOT APPLY TO ALLEGATIONS THAT A CHILD IS IN
32 NEED OF ASSISTANCE.

33 [(a)] Except as provided in subsection (b) of this section, the]

34 (B) AN intake officer shall receive:

35 (1) Complaints from a person or agency having knowledge of facts which
36 may cause a person to be subject to the jurisdiction of the court; and

1 (2) Citations issued by a police officer under [§ 3-835] § 3-8A-32 of this
2 [article] SUBTITLE.

3 [(b) The local department of social services shall only receive complaints which
4 allege that a child is in need of assistance. Upon receipt and consideration of a
5 complaint, the local department shall:

6 (1) File a petition;

7 (2) Authorize the person or agency making the complaint to file a
8 petition; or

9 (3) Deny authorization to file the petition.]

10 (c) (1) Except as otherwise provided in this subsection, in considering the
11 complaint, the intake officer shall make an inquiry within 25 days as to whether the
12 court has jurisdiction and whether judicial action is in the best interests of the public
13 or the child.

14 (2) An inquiry need not include an interview of the child who is the
15 subject of the complaint if the complaint alleges the commission of a delinquent act
16 that would be a felony if committed by an adult or alleges a violation of Article 27, §
17 36B of the Code.

18 (3) In accordance with this section, the intake officer may, after such
19 inquiry and within 25 days of receiving the complaint:

20 (i) Authorize the filing of a petition;

21 (ii) Propose an informal adjustment of the matter; or

22 (iii) Refuse authorization to file a petition.

23 (4) (i) If a complaint is filed that alleges the commission of a
24 delinquent act which would be a felony if committed by an adult or alleges a violation
25 of Article 27, § 36B of the Code, and if the intake officer denies authorization to file a
26 petition or proposes an informal adjustment, the intake officer shall immediately:

27 1. Forward the complaint to the State's Attorney; and

28 2. Forward a copy of the entire intake case file to the State's
29 Attorney with information as to any and all prior intake involvement with the child.

30 (ii) The State's Attorney shall make a preliminary review as to
31 whether the court has jurisdiction and whether judicial action is in the best interests
32 of the public or the child. The need for restitution may be considered as one factor in
33 the public interest. After the preliminary review the State's Attorney shall, within 30
34 days of the receipt of the complaint by the State's Attorney, unless the court extends
35 the time:

36 1. File a petition;

1 (f) (1) During the informal adjustment process, the child shall be subject to
2 such supervision as the intake officer deems appropriate and if the intake officer
3 decides to have an intake conference, the child and the child's parent or guardian
4 shall appear at the intake conference.

5 (2) The informal adjustment process shall not exceed 90 days unless that
6 time is extended by the court.

7 (3) If the victim, the child, and the child's parent or guardian do not
8 consent to an informal adjustment, the intake officer shall authorize the filing of a
9 petition or deny authorization to file a petition under subsection (g) of this section.

10 (4) If at any time before the completion of an agreed upon informal
11 adjustment the intake officer believes that the informal adjustment cannot be
12 completed successfully, the intake officer shall authorize the filing of a petition or
13 deny authorization to file a petition under subsection (g) of this section.

14 (g) (1) If based upon the complaint and the inquiry, the intake officer
15 concludes that the court has no jurisdiction, or that neither an informal adjustment
16 nor judicial action is appropriate, the intake officer may deny authorization to file a
17 petition.

18 (2) In that event, through use of the form prescribed by [§ 3-810.1] §
19 3-8A-11 of this [article] SUBTITLE, the intake officer shall inform the following
20 persons of the decision, the reasons for it, and their right of review provided in this
21 section:

22 (i) The victim;

23 (ii) The arresting police officer; and

24 (iii) The person or agency that filed the complaint or caused it to be
25 filed.

26 (h) (1) If the complaint alleges the commission of a delinquent act and the
27 intake officer denies authorization to file a petition, the following persons may appeal
28 the denial to the State's Attorney:

29 (i) The victim;

30 (ii) The arresting police officer; and

31 (iii) The person or agency that filed the complaint or caused it to be
32 filed.

33 (2) In order for an appeal to be made, it must be received by the State's
34 Attorney's office within 30 days after the form prescribed by [§ 3-810.1] § 3-8A-11 of
35 this [article] SUBTITLE is mailed by the juvenile intake officer to the person being
36 informed of the intake officer's decision.

1 (3) (i) The State's Attorney shall review the denial.

2 (ii) If the State's Attorney concludes that the court has jurisdiction
3 and that judicial action is in the best interests of the public or the child, the State's
4 Attorney may file a petition.

5 (iii) This petition shall be filed within 30 days of the receipt of the
6 complainant's appeal.

7 (i) (1) If authorization to file a petition for a complaint which alleges a child
8 is in need of supervision is denied, the person or agency that filed the complaint or
9 caused it to be filed, within 15 days of personal notice of the denial to that person or
10 agency or the mailing to the last known address, may submit the denial for review by
11 the Department of Juvenile Justice Area Director for the area in which the complaint
12 was filed.

13 (2) The Department of Juvenile Justice Area Director shall review the
14 denial.

15 (3) If, within 15 days, the Department of Juvenile Justice Area Director
16 concludes that the court has jurisdiction and that judicial action is in the best
17 interests of the public and the child, the Department of Juvenile Justice Area Director
18 may authorize the filing of a petition in writing.

19 (4) The petition shall be filed within 5 days of the decision.

20 [(j) (1) If authorization to file a petition for a complaint which alleges a child
21 is in need of assistance is denied, the person or agency that filed the complaint or
22 caused it to be filed, within 15 days of personal notice of the denial to that person or
23 agency or the mailing to the last known address, may submit the denial to the
24 Department of Juvenile Justice Area Director for the area in which the complaint was
25 filed.

26 (2) The Area Director shall authorize the filing of the petition.

27 (3) The petition shall be filed within 5 days of the submission of the
28 denial to the Department of Juvenile Justice Area Director.]

29 [(k) (J) (1) If the complaint alleges that a minor 16 years of age or older has
30 committed an act in violation of any provision of the Maryland Vehicle Law or other
31 traffic law or ordinance under the jurisdiction of the juvenile court, the complaint
32 shall be filed directly with the State's Attorney of the jurisdiction in which the alleged
33 violation occurred.

34 (2) If the State's Attorney elects to proceed with the case, the State's
35 Attorney may prepare a petition for filing with the court of proper jurisdiction.

36 [(l) (K) (1) If the intake officer receives a citation other than a citation
37 authorized under Article 27, § 405A of the Code, the intake officer may:

1 [(1)] (I) Refer the child to an alcohol education or rehabilitation
2 program;

3 [(2)] (II) Assign the child to a supervised work program for not more
4 than 20 hours for the first violation and not more than 40 hours for the second or
5 subsequent violation;

6 [(3)] (III) Require the parent or guardian of the child to withdraw the
7 parent's or guardian's consent to the child's license to drive, and advise the Motor
8 Vehicle Administration of the withdrawal of consent; or

9 [(4)] (IV) Forward the citation to the State's Attorney.

10 [(m)] (2) The intake officer shall forward the citation, other than a citation
11 authorized under Article 27, § 405A of the Code, to the State's Attorney if:

12 [(1)] (I) The parent or guardian of the child refuses to withdraw consent
13 to the child's license to drive;

14 [(2)] (II) The child fails to comply with an alcohol education or
15 rehabilitation program referral; or

16 [(3)] (III) The child fails to comply with a supervised work program
17 assignment.

18 [(n)] (L) (1) If the intake officer receives a citation authorized under Article
19 27, § 405A of the Code, the intake officer may:

20 [(1)] (I) Refer the child to a smoking cessation clinic, or other suitable
21 presentation of the hazards associated with tobacco use;

22 [(2)] (II) Assign the child to a supervised work program for not more
23 than 20 hours for the first violation and not more than 40 hours for a second or
24 subsequent violation; or

25 [(3)] (III) Forward the citation to the State's Attorney.

26 [(o)] (2) The intake officer shall forward the citation authorized under Article
27 27, § 405A of the Code to the State's Attorney if the child fails to comply with a
28 smoking program referral or a supervised work program assignment described under
29 [subsection (n)] PARAGRAPH (1) of this [section] SUBSECTION.

30 [(p)] (M) (1) Except as provided in paragraph (2) of this subsection, within
31 15 days after a law enforcement officer takes a child into custody the law enforcement
32 officer shall file a complaint with an intake officer.

33 (2) If a child is referred to a diversion program, the law enforcement
34 officer may file the complaint with an intake officer more than 30 days after but no
35 later than 120 days after the law enforcement officer took the child into custody.

1 [(q)] (N) The court may dismiss a petition for failure to comply with this
2 section only if the respondent has demonstrated actual prejudice.

3 [3-810.1.] 3-8A-11.

4 (a) An intake officer shall use the following form to inform persons, in
5 accordance with [§ 3-810] 3-8A-10 OF THIS SUBTITLE, of his decision to deny
6 authorization to file a petition for the alleged commission of a delinquent act:

7 Date: (Date form is mailed)

8 Re:

9 Offense No.:

10 Date of Offense:

11 Nature of Offense:

12

13

14

15 Dear

16 I have reviewed the facts concerning the offense referred to above and have
17 decided not to authorize juvenile court action. This decision included consideration of
18 the facts of the case and the juvenile's involvement. Home, school, and community
19 adjustment along with parental concern and control were examined. Past history with
20 the police and court was also considered.

21 The reasons for this decision are as follows:

22 The juvenile was issued a reprimand and warned against future involvement
23 in delinquent activities.

24 The juvenile is currently under supervision of the juvenile court.

25 The juvenile will receive informal supervision by this intake officer. This will
26 include counseling, and possibly referral to a program or agency to further
27 work with problems seen as important to the juvenile's future adjustment.

28 The juvenile has successfully completed a pretrial program of intensive
29 counseling and supervision of 45 to 90 days, and has shown a satisfactory
30 adjustment during this time.

31 This case is not legally sufficient.

32 Additional Comments:

33

34

35 If you disagree with this decision and desire to appeal, you must fill in the form
36 provided below and send it to the State's Attorney's office so that it is received in that

1 office by
(Date)

2 If you have any questions or want to talk about this case with me before making
3 a decision on whether to appeal, please call me at.....
(Phone Number)

4 However, if you do this, it will not extend the 30-day period within which you are
5 allowed to appeal.

6 Sincerely,

7
8 Intake Officer
9
10

11 If you disagree with the above decision of the intake officer, fill out the form
12 below and send it to:

13 (To be filled in
14 by intake officer
15 prior to mailing
16 (Name and to person being
17 address of appropriate informed of intake
18 State's Attorney authority) decision)

19 Re: (To be filled in
20 Offense: by intake officer
21 Date of Offense: prior to mailing
22 Nature of Offense: to person being
informed of intake
decision)

23 I have been informed by the juvenile intake officer of his decision not to forward
24 this case for action in the juvenile court.

25 I disagree with this decision and ask that the State's Attorney's office review it
26 and decide whether court proceedings should be carried out.

27
28 Signed

29 (b) The use of the form prescribed by subsection (a) of this section does not
30 preclude the Department of Juvenile Justice from sending other information, in
31 addition to this form, to explain the intake officer's decision and advise persons of
32 their right to appeal the decision of the intake officer.

1 [3-811.] 3-8A-12.

2 (a) A statement made by a participant while counsel and advice are being
3 given, offered, or sought, in the discussions or conferences incident to an informal
4 adjustment may not be admitted in evidence in any adjudicatory hearing or in a
5 criminal proceeding against him prior to conviction.

6 (b) Any information secured or statement made by a participant during a
7 preliminary or further inquiry pursuant to [§ 3-810] § 3-8A-10 OF THIS SUBTITLE or
8 a study pursuant to [§ 3-818] § 3-8A-17 OF THIS SUBTITLE may not be admitted in
9 evidence in any adjudicatory hearing except on the issue of respondent's competence
10 to participate in the proceedings and responsibility for his conduct as provided in §
11 12-108 of the Health - General Article where a petition alleging delinquency has been
12 filed, or in a criminal proceeding prior to conviction.

13 (c) A statement made by a child, his parents, guardian or custodian at a
14 waiver hearing is not admissible against him or them in criminal proceedings prior to
15 conviction except when the person is charged with perjury, and the statement is
16 relevant to that charge and is otherwise admissible.

17 (d) If jurisdiction is not waived, any statement made by a child, his parents,
18 guardian, or custodian at a waiver hearing may not be admitted in evidence in any
19 adjudicatory hearing unless a delinquent offense of perjury is alleged, and the
20 statement is relevant to that charge and is otherwise admissible.

21 [3-812.] 3-8A-13.

22 (a) A petition shall allege that a child is either delinquent[, or in need of
23 assistance,] or in need of supervision. If it alleges delinquency, it shall set forth in
24 clear and simple language the alleged facts which constitute the delinquency, and
25 shall also specify the laws allegedly violated by the child. If it alleges that the child is
26 [in need of assistance or] in need of supervision, the petition shall set forth in clear
27 and simple language the alleged facts supporting that allegation.

28 (b) Petitions alleging delinquency or violation of [§ 3-831] § 3-8A-29 OF THIS
29 SUBTITLE shall be prepared and filed by the State's Attorney. A petition alleging
30 delinquency shall be filed within 30 days after the receipt of a referral from the
31 intake officer, unless that time is extended by the court for good cause shown.
32 Petitions alleging that a child is in need of supervision shall be filed by the intake
33 officer. [Petitions alleging that a child is in need of assistance shall be filed by the
34 local department. If the local department does not file the petition, the person or
35 agency that made the complaint to the local department may submit the denial to the
36 Department of Juvenile Justice Area Director for filing.]

37 (c) The form of petitions and all other pleadings UNDER THIS SUBTITLE, and
38 except as otherwise provided in this subtitle, the procedures to be followed by the
39 court UNDER THIS SUBTITLE, shall be as specified in the Maryland Rules.

40 (d) The State's Attorney, upon assigning the reasons, may dismiss in open
41 court a petition alleging delinquency.

1 (e) (1) The court shall conduct all hearings UNDER THIS SUBTITLE in an
2 informal manner.

3 (2) In any proceeding in which a child is alleged to be in need of
4 supervision [or assistance] or to have committed a delinquent act that would be a
5 misdemeanor if committed by an adult, the court may exclude the general public from
6 a hearing, and admit only those persons having a direct interest in the proceeding
7 and their representatives.

8 (3) Except as provided in paragraph (4) of this subsection, in a case in
9 which a child is alleged to have committed a delinquent act that would be a felony if
10 committed by an adult, the court shall conduct in open court any hearing or other
11 proceeding at which the child has a right to appear.

12 (4) For good cause shown, the court may exclude the general public from
13 a hearing or other proceeding in a case in which a child is alleged to have committed
14 a delinquent act that would be a felony if committed by an adult and admit only the
15 victim and those persons having a direct interest in the proceeding and their
16 representatives.

17 (5) Except as provided in paragraph (6) of this subsection, the court shall
18 announce, in open court, adjudications and dispositions in cases where a child is
19 alleged to have committed a delinquent act which would be a felony if committed by
20 an adult.

21 (6) For good cause shown, the court may exclude the general public from
22 a proceeding at which an adjudication or disposition is announced and admit only the
23 victim and those persons having a direct interest in the proceeding and their
24 representatives.

25 (f) The court shall try cases without a jury.

26 [(g) Whenever a child in need of assistance petition is filed by the local
27 department of social services, the local department shall be a party to the proceeding
28 and shall present to the court the evidence in support of the petition.

29 (h) The court shall hear and rule on a petition seeking an order for emergency
30 medical treatment on an expedited basis.]

31 [3-814.] 3-8A-14.

32 (a) A child may be taken into custody UNDER THIS SUBTITLE by any of the
33 following methods:

34 (1) Pursuant to an order of the court;

35 (2) By a law enforcement officer pursuant to the law of arrest;

1 (3) By a law enforcement officer or other person authorized by the court
2 if he has reasonable grounds to believe that the child is in immediate danger from his
3 surroundings and that his removal is necessary for his protection; or

4 (4) By a law enforcement officer or other person authorized by the court
5 if he has reasonable grounds to believe that the child has run away from his parents,
6 guardian, or legal custodian.

7 (b) If a law enforcement officer takes a child into custody [he], THE OFFICER
8 shall immediately notify, or cause to be notified, the child's parents, guardian, or
9 custodian of the action. After making every reasonable effort to give notice, the law
10 enforcement officer shall with all reasonable speed:

11 (1) Release the child to his parents, guardian, or custodian or to any
12 other person designated by the court, upon their written promise to bring the child
13 before the court when requested by the court, and such security for the child's
14 appearance as the court may reasonably require, unless his placement in detention or
15 shelter care is permitted and appears required by [§ 3-815] § 3-8A-15 OF THIS
16 SUBTITLE; or

17 (2) Deliver the child to the court or a place of detention or shelter care
18 designated by the court.

19 (c) If a parent, guardian, or custodian fails to bring the child before the court
20 when requested, the court may issue a writ of attachment directing that the child be
21 taken into custody and brought before the court. The court may proceed against the
22 parent, guardian, or custodian for contempt.

23 [3-815.] 3-8A-15.

24 (a) Only the court or an intake officer may authorize detention or shelter care
25 for a child who may be in need of supervision or delinquent. [The local department,
26 pursuant to regulations promulgated by the Department of Human Resources, may
27 authorize shelter care for a child who may be in need of assistance.]

28 (b) If a child is taken into custody, the child may be placed in detention prior to
29 a hearing if:

30 (1) Such action is required to protect the child or person and property of
31 others;

32 (2) The child is likely to leave the jurisdiction of the court; or

33 (3) There are no parents, guardian, or custodian or other person able to
34 provide supervision and care for the child and return the child to the court when
35 required.

36 (c) A child taken into custody may be placed in emergency shelter care prior to
37 a hearing if:

1 (1) One or more of the circumstances stated in subsection (b) of this
2 section exist; and

3 (2) (i) 1. Continuation of the child in the child's home is contrary to
4 the welfare of the child; and

5 2. Removal of the child from the child's home is reasonable
6 under the circumstances due to an alleged emergency situation and in order to
7 provide for the safety of the child; or

8 (ii) 1. Reasonable, but unsuccessful, efforts have been made to
9 prevent or eliminate the need for removal from the child's home; and

10 2. As appropriate, reasonable efforts are being made to
11 return the child to the child's home.

12 (d) (1) If the child is not released, the intake officer or the official who
13 authorized detention or shelter care shall immediately file a petition to authorize
14 continued detention or shelter care.

15 (2) A hearing on the petition shall be held not later than the next court
16 day, unless extended by the court upon good cause shown.

17 (3) Reasonable notice, oral or written, stating the time, place, and
18 purpose of the hearing, shall be given to the child and, if they can be found, the child's
19 parents, guardian, or custodian.

20 (4) Except as provided in [paragraphs] PARAGRAPH (5) [and (6)] of this
21 subsection, shelter care may not be ordered for a period of more than 30 days unless
22 an adjudicatory or waiver hearing is held.

23 [(5) For a child in need of assistance, shelter care may be extended for an
24 additional period of not more than 30 days if the court finds after a hearing held as
25 part of the adjudication that continued shelter care is necessary to provide for the
26 safety of the child.]

27 [(6) (5) For a child in need of supervision or a delinquent child, shelter
28 care may be extended for an additional period of not more than 30 days if the court
29 finds after a hearing held as part of the adjudication that continued shelter care is
30 consistent with the circumstances stated in subsections (b) and (c) of this section.

31 [(7) (6) (i) An adjudicatory or waiver hearing shall be held no later
32 than 30 days after the date a petition for detention is granted.

33 (ii) If a child is detained after an adjudicatory hearing, a
34 disposition hearing shall be held no later than 14 days after the adjudicatory hearing.

35 (iii) Detention time may be extended in increments of not more than
36 14 days where the petition charges the child with a delinquent act and where the
37 court finds, after a subsequent hearing, that extended detention is necessary either:

1 1. For the protection of the child; or

2 2. For the protection of the community.

3 (e) (1) Detention may not be continued beyond emergency detention unless,
4 upon an order of court after a hearing, the court has found that one or more of the
5 circumstances stated in subsection (b) of this section exist.

6 (2) A court order under this paragraph shall contain a written
7 determination of whether or not the criteria contained in subsection (c)(1) and (2) of
8 this section have been met.

9 (f) Shelter care may only be continued beyond emergency shelter care if the
10 court has found that:

11 (1) Continuation of the child in the child's home is contrary to the
12 welfare of the child; and

13 (2) (i) Removal of the child from the child's home is necessary due to
14 an alleged emergency situation and in order to provide for the safety of the child; or

15 (ii) Reasonable, but unsuccessful, efforts were made to prevent or
16 eliminate the need for removal of the child from the home.

17 (3) (i) If the court continues shelter care on the basis of an alleged
18 emergency, the court shall assess whether the absence of efforts to prevent removal
19 was reasonable.

20 (ii) If the court finds that the absence of efforts to prevent removal
21 was not reasonable, the court shall make a written determination so stating.

22 (4) The court shall make a determination as to whether reasonable
23 efforts are being made to make it possible to return the child to the child's home or
24 whether the absence of such efforts is reasonable.

25 (g) A child alleged to be delinquent may not be detained in a jail or other
26 facility for the detention of adults.

27 (h) (1) [(i)] A child alleged to be in need of supervision [or in need of
28 assistance] may not be placed [in]IN:

29 (I) [detention and may not be placed in] DETENTION;

30 (II) [a] A State mental health facility; OR

31 (III) A SHELTER CARE FACILITY THAT IS NOT OPERATING IN
32 COMPLIANCE WITH APPLICABLE STATE LICENSING LAWS.

33 [(ii)] If the child is alleged to be in need of assistance by reason of a
34 mental handicap, the child may be placed in shelter care facilities maintained or

1 licensed by the Department of Health and Mental Hygiene or if these facilities are not
2 available, then in a private home or shelter care facility approved by the court.

3 (iii) If the]

4 (2) SUBJECT TO PARAGRAPH (1)(III) OF THIS SUBSECTION, A child [is]
5 alleged to be [in need of assistance for any other reason, or] in need of supervision[,
6 he] may be placed in shelter care facilities maintained or approved by the Social
7 Services Administration[,] or the Department of Juvenile Justice[,] or in a private
8 home or shelter care facility approved by the court.

9 [(2) A child alleged to be in need of supervision or in need of assistance
10 may not be placed in a shelter care facility that is not operating in compliance with
11 applicable State licensing laws.]

12 (3) The Secretary of Human Resources and the Secretary of [the
13 Department of] Juvenile Justice together, when appropriate, with the Secretary of
14 Health and Mental Hygiene shall jointly adopt regulations to ensure that any child
15 placed in shelter care pursuant to a petition filed under subsection (d) of this section
16 be provided appropriate services, including:

17 (i) Health care services;

18 (ii) Counseling services;

19 (iii) Education services;

20 (iv) Social work services; and

21 (v) Drug and alcohol abuse assessment or treatment services.

22 (4) In addition to any other provision, the regulations shall require:

23 (i) The [local department of social services or the] Department of
24 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter
25 care facility to assess the child's treatment needs; and

26 (ii) The plan to be submitted to all parties to the petition and their
27 counsel.

28 (i) The intake officer [or the official] who authorized detention or shelter care
29 shall immediately give written notice of the authorization for detention or shelter care
30 to the child's parent, guardian, or custodian[,] and to the court. The notice shall be
31 accompanied by a statement of the reasons for taking the child into custody and
32 placing him in detention or shelter care. This notice may be combined with the notice
33 required under subsection (d) of this section.

34 [3-816.] 3-8A-16.

35 (a) The official in charge of a jail or other facility for the detention of adult
36 offenders or persons charged with crime shall inform the court or the intake officer

1 immediately when a person, who is or appears to be under the age of 18 years, is
2 received at the facility and shall deliver him to the court upon request or transfer him
3 to the facility designated by the intake officer or the court, unless the court has
4 waived its jurisdiction with respect to the person and he is being proceeded against as
5 an adult.

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

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

13 [3-818.] 3-8A-17.

14 (a) After a petition or a citation has been filed UNDER THIS SUBTITLE, the
15 court may direct the Department of Juvenile Justice or another qualified agency to
16 make a study concerning the child, [his] THE CHILD'S family, [his] THE CHILD'S
17 environment, and other matters relevant to the disposition of the case.

18 (b) As part of [the] A study UNDER THIS SECTION, the child or any parent,
19 guardian, or custodian may be examined at a suitable place by a physician,
20 psychiatrist, psychologist, or other professionally qualified person.

21 (c) The report of [the] A study UNDER THIS SECTION is admissible as
22 evidence at a waiver hearing and at a disposition hearing, but not at an adjudicatory
23 hearing. However, the attorney for each party has the right to inspect the report prior
24 to its presentation to the court, to challenge or impeach its findings and to present
25 appropriate evidence with respect to it.

26 [3-819.] 3-8A-18.

27 (a) After a petition or citation has been filed UNDER THIS SUBTITLE, and
28 unless jurisdiction has been waived, the court shall hold an adjudicatory hearing.

29 (b) (1) Before a child is adjudicated delinquent, the allegations in the
30 petition that the child has committed a delinquent act must be proved beyond a
31 reasonable doubt.

32 (2) Before a child is found to have committed the violation charged in a
33 citation, the allegations in the citation must be proved beyond a reasonable doubt.

34 (c) If an adult is charged under this subtitle, the allegations must be proved
35 beyond a reasonable doubt.

36 (d) [In all other cases] BEFORE A CHILD IS ADJUDICATED AS A CHILD IN
37 NEED OF SUPERVISION, the allegations must be proved by a preponderance of the
38 evidence.

1 [3-820.] 3-8A-19.

2 (a) (1) After an adjudicatory [hearing] HEARING, the court shall hold a
3 separate disposition hearing, unless the petition or citation is dismissed or unless
4 such hearing is waived in writing by all of the parties.

5 (2) [Except as provided in paragraph (3) of this subsection, the] THE
6 disposition hearing may be held on the same day as the adjudicatory hearing, if notice
7 of the disposition hearing, as prescribed by the Maryland Rules, is waived on the
8 record by all of the parties.

9 [(3) In a child in need of assistance proceeding, the disposition hearing
10 shall be held on the same day as the adjudicatory hearing unless:

11 (i) The court or a party moves that the disposition hearing be
12 delayed; and

13 (ii) The court finds that there is good cause to delay the disposition
14 hearing to a subsequent day.]

15 (b) The priorities in making a disposition are the public safety and a program
16 of treatment, training, and rehabilitation best suited to the physical, mental, and
17 moral welfare of the child consistent with the public interest.

18 (c) (1) In making a disposition on a petition UNDER THIS SUBTITLE, the
19 court may:

20 (i) Place the child on probation or under supervision in his own
21 home or in the custody or under the guardianship of a relative or other fit person,
22 upon terms the court deems appropriate;

23 (ii) Subject to the provisions of paragraph (2) of this subsection,
24 commit the child to the custody or under the guardianship of the Department of
25 Juvenile Justice, [a local department of social services,] the Department of Health
26 and Mental Hygiene, or a public or licensed private agency on terms that the court
27 considers appropriate to meet the priorities set forth in subsection (b) of this section,
28 including designation of the type of facility where the child is to be accommodated,
29 until custody or guardianship is terminated with approval of the court or as required
30 under [§ 3-825] § 3-8A-23 of this subtitle; or

31 (iii) Order the child, parents, guardian, or custodian of the child to
32 participate in rehabilitative services that are in the best interest of the child and the
33 family.

34 (2) A child committed under paragraph (1)(ii) of this subsection may not
35 be accommodated in a facility that has reached budgeted capacity if a bed is available
36 in another comparable facility in the State, unless the placement to the facility that
37 has reached budgeted capacity has been recommended by the Department of Juvenile
38 Justice.

1 (d) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this
2 paragraph, in making a disposition on a finding that the child has committed the
3 violation specified in a citation, the court may order the Motor Vehicle Administration
4 to initiate an action, under the motor vehicle laws, to suspend the driving privilege of
5 a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a
6 specified period of not less than 30 days nor more than 90 days.

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

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

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

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

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

28 1. If the child is at least 16 years of age on the date of the
29 disposition, on the date of the disposition; or

30 2. If the child is younger than 16 years of age on the date of
31 the disposition, on the date the child reaches the child's 16th birthday.

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

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

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

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

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

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

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

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

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

18 (e) A guardian appointed under this section has no control over the property of
19 the child unless he receives that express authority from the court.

20 (f) The court may impose reasonable court costs against a respondent, or the
21 respondent's parent, guardian, or custodian, against whom a finding of delinquency
22 has been entered under the provisions of this section.

23 (g) A child may be placed in an emergency facility on an emergency basis
24 under Title 10, Subtitle 6, Part IV of the Health - General Article.

25 (h) The court may not commit a child to the custody of the Department of
26 Health and Mental Hygiene for inpatient care and treatment in a State mental
27 hospital unless the court finds on the record based upon clear and convincing
28 evidence that:

29 (1) The child has a mental disorder;

30 (2) The child needs inpatient medical care or treatment for the
31 protection of himself or others;

32 (3) The child is unable or unwilling to be voluntarily admitted to such
33 facility; and

34 (4) There is no less restrictive form of intervention available which is
35 consistent with the child's condition and welfare.

1 (i) The court may not commit a child to the custody of the Department of
2 Health and Mental Hygiene for inpatient care and treatment in a State mental
3 retardation facility unless the court finds on the record based upon clear and
4 convincing evidence that:

5 (1) The child is mentally retarded;

6 (2) The condition is of such a nature that for the adequate care or
7 protection of the child or others, the child needs in-residence care or treatment; and

8 (3) There is no less restrictive form of care and treatment available
9 which is consistent with the child's welfare and safety.

10 (j) (1) Any commitment order issued under subsection (h) or (i) of this
11 section shall require the Department of Health and Mental Hygiene to file progress
12 reports with the court at intervals no greater than every 6 months during the life of
13 the order. The Department of Health and Mental Hygiene shall provide the child's
14 attorney of record with a copy of each report. The court shall review each report
15 promptly and consider whether the commitment order should be modified or vacated.
16 After the first 6 months of the commitment and at 6-month intervals thereafter upon
17 the request of any party, the Department or facility, the court shall grant a hearing for
18 the purpose of determining if the standard in subsection (h) or (i) OF THIS SECTION
19 continues to be met.

20 (2) At any time after the commitment of the child to a State mental
21 hospital if the individualized treatment plan developed under § 10-706 of the Health
22 - General Article recommends that a child no longer meets the standards in
23 subsection (h) OF THIS SECTION, then the court shall grant a hearing to review the
24 commitment order. The court may grant a hearing at any other time for the purpose
25 of determining if the standard in subsection (h) OF THIS SECTION continues to be met.

26 (3) Any time after the commitment of the child to a State mental
27 retardation facility if the individualized plan of habilitation developed under § 7-1006
28 of the Health - General Article recommends that a child no longer meets the
29 standards in subsection (i) OF THIS SECTION, then the court shall grant a hearing to
30 review the commitment order. The court may grant a hearing at any other time for
31 the purpose of determining if the standard in subsection (i) OF THIS SECTION
32 continues to be met.

33 [(k) In a child in need of assistance case, if the disposition includes removal of
34 the child from the home, the court shall issue an order:

35 (1) Making specific findings of fact as to the circumstances that caused
36 the need for the removal; and

37 (2) Informing the parents that the agency or department having
38 commitment of the child may change the permanency plan of reunification to another
39 permanency plan which may include the filing of a petition for termination of
40 parental rights if:

1 (i) The parents have not made significant progress to remedy the
2 circumstances that caused the need for the removal as specified in the court order;
3 and

4 (ii) The parents are unwilling or unable to give the child proper
5 care and attention within a reasonable period of time.]

6 [3-821.] 3-8A-20.

7 (a) [Except as provided in subsections (b) and (c) of this section, a] A party is
8 entitled to the assistance of counsel at every stage of any proceeding under this
9 subtitle.

10 [(b) Except for the petitioner and the child who is the subject of the petition, a
11 party in a child in need of assistance proceeding is not entitled to the assistance of
12 counsel at State expense unless:

13 (1) The party is the custodial parent or guardian of the child alleged to
14 be in need of assistance;

15 (2) The party is indigent; and

16 (3) (i) The proceeding is under § 3-815, § 3-819, or § 3-820 of this
17 subtitle; or

18 (ii) 1. The proceeding is a review hearing under Maryland Rule
19 11-115 or Maryland Rule 11-116 in which:

20 A. The State has moved to remove the child from the custody
21 of the parent or guardian; or

22 B. The parent or guardian has moved to regain custody; and

23 2. Due to the presence of complex factual or legal issues the
24 assistance of counsel is necessary to ensure that the proceeding does not entail the
25 risk of erroneous deprivation of custody.

26 (c) Except as provided in subsection (d) of this section, the Office of the Public
27 Defender may not represent a party in a child in need of assistance proceeding unless:

28 (1) The party is the custodial parent or legal guardian of the child
29 alleged to be in need of assistance;

30 (2) (i) The proceeding is under § 3-815, § 3-819, or § 3-820 of this
31 subtitle; or

32 (ii) The proceeding is under Maryland Rule 11-115 or Maryland
33 Rule 11-116 in which:

34 1. A. The State has moved to remove the child from the
35 custody of the parent or guardian; or

1 B. The parent or guardian has moved to regain custody; and

2 2. Due to the presence of complex factual or legal issues the
3 assistance of counsel is necessary to ensure that the proceeding does not entail the
4 risk of erroneous deprivation of custody;

5 (iii) The party applies to the Office of the Public Defender
6 requesting legal representation by the Public Defender in the proceeding; and

7 (iv) The party is financially eligible for the services of the Public
8 Defender.

9 (d) Subsection (c) of this section does not prohibit the Office of the Public
10 Defender from representing a child in Montgomery County who is alleged or found to
11 be in need of assistance.

12 (e)] (B) Compensation for the services of an attorney appointed to represent a
13 child in an action under this subtitle may be assessed by the court against any party
14 or against a parent of the child.

15 [3-823.] 3-8A-21.

16 (a) A child may not be detained at, or committed or transferred [to] TO, a
17 penal institution or other facility used primarily for the confinement of adults
18 charged with or convicted of a crime, except [pursuant to § 3-816(b)] IN
19 ACCORDANCE WITH § 3-8A-16 OF THIS SUBTITLE.

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

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

24 (1) A child may not be committed or transferred to any public or private
25 facility or institution unless the child is placed in accommodations that are separate
26 from [other persons 18 years of age or older] ADULTS who are confined to that facility
27 or institution; and

28 (2) The child may not be treated in any group with [persons who are 18
29 years of age or older] ADULTS.

30 [3-824.] 3-8A-22.

31 (a) (1) An adjudication of a child pursuant to this subtitle is not a criminal
32 conviction for any purpose and does not impose any of the civil disabilities ordinarily
33 imposed by a criminal conviction.

34 (2) An adjudication and disposition of a child in which the child's driving
35 privileges have been suspended may not affect the child's driving record or result in a
36 point assessment. The State Motor Vehicle Administration may not disclose

1 information concerning or relating to a suspension under this subtitle to any
2 insurance company or person other than the child, the child's parent or guardian, the
3 court, the child's attorney, a State's Attorney, or A law enforcement agency.

4 (3) Subject to paragraph (4) of this subsection, an adjudication of a child
5 as delinquent by reason of the child's violation of the State vehicle laws, including a
6 violation involving an unlawful taking or unauthorized use of a motor vehicle under
7 Article 27, § 342A or § 349, or § 14-102 of the Transportation Article shall be reported
8 by the clerk of the court to the Motor Vehicle Administration, which shall assess
9 points against the child under Title 16, Subtitle 4 of the Transportation Article, in the
10 same manner and to the same effect as if the child had been convicted of the offense.

11 (4) (i) An adjudication of a child as delinquent by reason of the child's
12 violation of § 21-902 of the Transportation Article or a finding that a child has
13 committed a delinquent act by reason of the child's violation of § 21-902 of the
14 Transportation Article, without an adjudication of the child as delinquent, shall be
15 reported by the clerk of the court to the Motor Vehicle Administration which shall:

16 1. For a violation of § 21-902(a) or (d) of the Transportation
17 Article, revoke the child's driving privilege in the same manner and to the same effect
18 as if the child had been convicted of the offense;

19 2. For a first violation of § 21-902(b) or (c) of the
20 Transportation Article, suspend the child's driving privilege for 6 months; and

21 3. For a second or subsequent violation of § 21-902(b) or (c)
22 of the Transportation Article, suspend the child's driving privilege for 1 year.

23 (ii) In the case of a finding, without an adjudication, that a child
24 has violated § 21-902 of the Transportation Article, the Motor Vehicle Administration
25 shall retain the report in accordance with § 16-117(b)(2) of the Transportation Article
26 pertaining to records of licensees who receive a disposition of probation before
27 judgment.

28 (b) An adjudication and disposition of a child pursuant to this subtitle are not
29 admissible as evidence against the child:

30 (1) In any criminal proceeding prior to conviction; [or]

31 (2) In any adjudicatory hearing on a petition alleging delinquency; or

32 (3) In any civil proceeding not conducted under this subtitle.

33 (c) Evidence given in a proceeding under this subtitle is not admissible
34 against the child in any other proceeding in another court, except in a criminal
35 proceeding where the child is charged with perjury and the evidence is relevant to
36 that charge and is otherwise admissible.

1 (d) An adjudication or disposition of a child under this subtitle shall not
2 disqualify the child with respect to employment in the civil service of the State or any
3 subdivision of the State.

4 [3-825.] 3-8A-23.

5 (a) Except as provided in subsections (b) and (c) OF THIS SECTION, an order
6 UNDER THIS SUBTITLE vesting legal custody in an individual, agency, or institution is
7 effective for an indeterminate period of time.

8 (b) An order providing for custody of a child adjudicated delinquent or in need
9 of supervision may not exceed three years from the date entered. However, the court
10 may renew the order upon its own motion, or pursuant to a petition filed by the
11 individual, institution, or agency having legal custody after notice and hearing as
12 prescribed by the Maryland Rules.

13 (c) An order under this section is not effective after the child becomes 21 years
14 old.

15 [3-826.] 3-8A-24.

16 If a child is committed UNDER THIS SUBTITLE to an individual or to a public or
17 private agency or institution, the court may require the custodian to file periodic
18 written progress reports, with recommendations for further supervision, treatment,
19 or rehabilitation.

20 [3-827.] 3-8A-25.

21 Pursuant to the procedure provided in the Maryland Rules, the court may make
22 an appropriate order directing, restraining, or otherwise controlling the conduct of a
23 person who is properly before the court UNDER THIS SUBTITLE, if:

24 (1) The court finds that the conduct:

25 (i) Is or may be detrimental or harmful to a child over whom the
26 court has jurisdiction; [or]

27 (ii) Will tend to defeat the execution of an order or disposition made
28 or to be made; or

29 (iii) Will assist in the rehabilitation of or is necessary for the welfare
30 of the child; and

31 (2) Notice of the application or motion and its grounds has been given as
32 prescribed by the Maryland Rules.

33 [3-828.] 3-8A-26.

34 (a) (1) A police record concerning a child is confidential and shall be
35 maintained separate from those of adults. Its contents may not be divulged, by

1 subpoena or otherwise, except by order of the court upon good cause shown or as
2 otherwise provided in § 7-303 of the Education Article.

3 (2) This subsection does not prohibit:

4 (i) Access to and confidential use of the record by the Department
5 of Juvenile Justice or in the investigation and prosecution of the child by any law
6 enforcement agency; or

7 (ii) A law enforcement agency of the State or of a political
8 subdivision of the State or the criminal justice information system from including, in
9 the law enforcement computer information system, information about an outstanding
10 juvenile court ordered writ of attachment, for the sole purpose of apprehending a child
11 named in the writ.

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

16 (2) This subsection does not prohibit access to and the use of the court
17 record or fingerprints of a child described under the Criminal Justice Information
18 System subtitle of Article 27 of the Code in a proceeding in the court UNDER THIS
19 SUBTITLE involving the child, by personnel of the court, the State's Attorney, counsel
20 for the child, a court-appointed special advocate for the child, or authorized personnel
21 of the Department of Juvenile Justice[, or, in a proceeding involving a child alleged to
22 be in need of assistance, by authorized personnel of the Social Services
23 Administration and local departments of social services of the Department of Human
24 Resources in order to conduct a child abuse or neglect investigation or to comply with
25 requirements imposed under Title IV-E of the Social Security Act].

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

29 [(4)] (3) (i) Except as provided in subparagraph (ii) of this paragraph,
30 this subsection does not prohibit access to and confidential use of the court record or
31 fingerprints of a child described under the Criminal Justice Information System
32 subtitle of Article 27 of the Code in an investigation and prosecution by a law
33 enforcement agency.

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

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

37 2. Any law enforcement agency other than a law enforcement
38 agency of the State or a political subdivision of the State.

1 [(5)] (4) (i) This subsection does not prohibit access to and use of a
2 court record by a judicial officer who is authorized under the Maryland Rules to
3 determine a defendant's eligibility for pretrial release, counsel for the defendant, or
4 the State's Attorney if:

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

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

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

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

13 (c) The court, on its own motion or on petition, and for good cause shown, may
14 order the court records of a child UNDER THIS SUBTITLE sealed, and, upon petition or
15 on its own motion, shall order them sealed after the child has reached 21 years of age.
16 If sealed, the court records of a child may not be opened, for any purpose, except by
17 order of the court upon good cause shown.

18 (d) This section does not prohibit access to or use of any juvenile record by the
19 Maryland Division of Parole and Probation or the Maryland Parole Commission when
20 the Division or the Commission is carrying out any of their statutory duties either at
21 the direction of a court of competent jurisdiction, or when the Maryland Parole
22 Commission is carrying out any of its statutory duties, if the record concerns a charge
23 or adjudication of delinquency.

24 (e) This section does not prohibit access to and use of any juvenile record by
25 the Maryland Division of Correction when the Division is carrying out any of its
26 statutory duties if: (1) the individual to whom the record pertains is committed to the
27 custody of the Division; and (2) the record concerns an adjudication of delinquency.

28 (f) Subject to the provisions of Article 83C, § 2-115 of the Code, this section
29 does not prohibit access to or use of any juvenile record for criminal justice research
30 purposes. A record used under this subsection may not contain the name of the
31 individual to whom the record pertains, or any other identifying information which
32 could reveal the individual's name.

33 (g) This section does not prohibit a victim who has filed a notification request
34 form from being notified of proceedings and events involving the defendant or child as
35 provided in this [article] SUBTITLE or Article 27 of the Code.

36 [3-829.] 3-8A-27.

37 The court may enter a judgment of restitution against the parent of a child, the
38 child, or both as provided under Article 27, § 807 of the Code.

1 [3-830.] 3-8A-28.

2 After giving the parent a reasonable opportunity to be heard, the court may
3 order either parent or both parents to pay a sum in the amount the court directs to
4 cover WHOLLY OR PARTLY the support of the child [in whole or in part] UNDER THIS
5 SUBTITLE.

6 [3-831.] 3-8A-29.

7 (a) It is unlawful for an adult wilfully to contribute to, encourage, cause or
8 tend to cause any act, omission, or condition which results in a violation, renders a
9 child delinquent[,] OR in need of supervision[, or in need of assistance].

10 (b) A person may be convicted under this section even if the child has not been
11 found to have committed a violation[,] OR adjudicated delinquent[,] OR in need of
12 supervision[, or in need of assistance]. However, the court may expunge a delinquent
13 adjudication from the child's record and enter it as a finding in the adult's case.

14 (c) An adult convicted under this section is subject to a fine of not more than
15 \$2,500 or imprisonment for not more than 3 years, or both. The court may suspend
16 sentence and place the adult on probation subject to the terms and conditions it
17 deems to be in the best interests of the child and the public.

18 [3-832.] 3-8A-30.

19 For purposes of Title 12 of this article, an action, decision, order, or judgment of
20 the District Court in Montgomery County sitting as the juvenile court shall be treated
21 in the same manner as if it had been made, done, or entered by a circuit court.

22 [3-834.] 3-8A-31.

23 (A) IN THIS SECTION, "MENTALLY HANDICAPPED CHILD" MEANS A CHILD
24 WHO IS OR MAY BE MENTALLY RETARDED OR MENTALLY ILL.

25 [(a)] (B) [(1) Subject to paragraph (2) of this subsection, in] IN addition to
26 any requirements relating to the appointment of counsel for children, at any time
27 during the pendency of any action UNDER THIS SUBTITLE, where it appears to the
28 court that the protection of the rights of a child requires independent representation,
29 the court may, upon its own motion, or the motion of any party to the action, appoint
30 an attorney to represent the interest of the child in that particular action. Such
31 actions include but are not limited to those involving a [child in need of assistance,]
32 child in need of supervision, delinquent child, or mentally handicapped child.

33 [(2) In any action in which payment for the services of a court-appointed
34 attorney for the child is the responsibility of the local department of social services,
35 unless the court finds that it would not be in the best interests of the child, the court
36 shall:

1 (i) Appoint an attorney who has contracted with the Department of
2 Human Resources to provide those services, in accordance with the terms of the
3 contract; and

4 (ii) In an action in which an attorney has previously been
5 appointed, strike the appearance of the attorney previously appointed, and appoint
6 the attorney who is currently under contract with the Department of Human
7 Resources, in accordance with the terms of the contract.

8 (b)] (C) The compensation for the services of the attorney UNDER THIS
9 SECTION may be assessed against any party or parties to the action.

10 [(c) In addition to, but not instead of, the appointment of an attorney under
11 subsection (a) of this section, the court, in any action, may appoint an individual
12 provided by the Court-Appointed Special Advocate Program established under §
13 3-834.1 of this subtitle.]

14 [3-835.] 3-8A-32.

15 (a) A law enforcement officer authorized to make arrests shall issue a citation
16 to a child if the officer has probable cause to believe that the child is violating:

17 (1) Article 27, § 400, § 400A, § 400B, § 401, or § 405A of the Code; or

18 (2) § 26-103 of the Education Article.

19 (b) A citation issued under this section shall be in a format prescribed by the
20 Chief Judge of the District Court of Maryland after consultation with police
21 administrators and the Motor Vehicle Administrator. The uniform motor vehicle
22 citation form shall be printed by the District Court, and all other citation forms shall
23 be printed by the law enforcement agencies of the State and signed by the issuing
24 officer and shall contain:

25 (1) The name, address, and birth date of the child being charged with the
26 violation;

27 (2) The name and address of the child's parent or legal guardian;

28 (3) The statute allegedly violated;

29 (4) The time, place, and date of the violation;

30 (5) The driver's license number of the child, if the child possesses a
31 driver's license;

32 (6) The registration number of the motor vehicle, motorcycle, or other
33 vehicle, if applicable;

34 (7) The signature of the child; and

1 (8) The penalties which may be imposed under [§ 3-820] § 3-8A-19 of
2 this subtitle.

3 (c) A copy of the citation issued under this section shall be:

4 (1) Given to the child being charged;

5 (2) Retained by the officer issuing the citation;

6 (3) Mailed within 7 days to the child's parent or legal guardian; and

7 (4) Filed with the intake officer of the court having jurisdiction under
8 this subtitle.

9 [3-836.] 3-8A-33.

10 The guidelines provided under Article 27, § 851 of the Code apply to victims and
11 witnesses of delinquent acts.

12 4-301.

13 (a) Except as provided in [§] §§ 3-803, 3-8A-03, AND 4-302 [and § 3-804] OF
14 THIS ARTICLE, the District Court has exclusive original jurisdiction in a criminal case
15 in which a person at least 16 years old or a corporation is charged with violation of the
16 vehicle laws, or the State Boat Act, or rules and regulations adopted pursuant to it.

17 5-805.

18 (a) (3) "Offender" means a person assigned or ordered to perform
19 community service:

20 (i) By a court according to the provisions of Article 27, § 726A of the
21 Code or [§ 3-820] § 3-8A-19 of this article; or

22 (ii) By an intake officer under [§ 3-810] § 3-8A-10 of this article.

23 (5) "Private provider" means an organization that:

24 (ii) 2. Provides work projects for juveniles assigned or ordered to
25 perform community service under [§ 3-810] § 3-8A-10 or [§ 3-820] § 3-8A-19 of this
26 article; or

27 12-403.

28 (a) An appeal from the District Court sitting in one of the counties shall be
29 taken to the circuit court of the county in which judgment was entered. In
30 Montgomery County, an appeal from the District Court sitting as a juvenile court
31 shall be as provided for in [§ 3-832] §§ 3-808(C) AND 3-8A-30 of this article.

1

Article - Education

2 7-303.

3 (a) (5) "Reportable offense" means:

4 (ii) Any of the offenses enumerated in [§ 3-804(e)(4)] § 3-803(D)(4)
5 of the Courts Article; or

6 26-103.

7 (b) (1) Any person under 18 years of age who violates [the provisions] ANY
8 PROVISION of this section shall be issued a citation and be subject to the dispositions
9 for a violation under [Subtitle 8 of] Title 3, SUBTITLE 8A of the Courts [and Judicial
10 Proceedings] Article.

11

Article - Family Law

12 5-322.

13 (a) (1) (ii) In addition to the notice of filing required under subparagraph
14 (i) of this paragraph, if a petition for guardianship is filed after a juvenile proceeding
15 in which the child has been adjudicated to be a child in need of assistance[, a
16 neglected child, or an abused child], a petitioner shall give notice of the filing of the
17 petition for guardianship to:18 1. the attorney who represented a natural parent in the
19 juvenile proceeding; and20 2. the attorney who represented the minor child in the
21 juvenile proceeding.22 (b) If a petition for guardianship is filed after a juvenile proceeding in which
23 the child has been adjudicated to be a child in need of assistance, the petitioner shall
24 give notice to the child's natural parent by serving a show cause order by certified
25 mail or private process on the natural parent:26 (1) if the natural parent was present at a CINA hearing and notified by
27 the court of the requirements of [§ 3-837] § 3-821 of the Courts Article:28 (i) at the latest address listed in juvenile court records maintained
29 in accordance with [§ 3-837] § 3-821 of the Courts Article;30 (2) if the natural parent was not present at a CINA hearing and notified
31 by the court of the requirements of [§ 3-837] § 3-821 of the Courts Article:32 (i) at the latest address, if any, listed in juvenile court records
33 maintained in accordance with [§ 3-837] § 3-821 of the Courts Article; or

1 5-525.

2 (d) (1) Unless a court orders that reasonable efforts are not required under
3 [§ 3-812.1] § 3-812 of the Courts Article or § 5-313 of this title, reasonable efforts
4 shall be made to preserve and reunify families:

5 (i) prior to the placement of a child in an out-of-home placement,
6 to prevent or eliminate the need for removing the child from the child's home; and

7 (ii) to make it possible for a child to safely return to the child's
8 home.

9 **Article - Health - General**

10 10-923.

11 (a) Application for placement of a child or adolescent in a private therapeutic
12 group home may be made under this section by:

13 (4) On behalf of a child or adolescent, a local department of social
14 services when the local department has custody or guardianship of the child or
15 adolescent under [§ 3-820] § 3-819 of the Courts [and Judicial Proceedings]Article;

16 (6) On behalf of a child or adolescent, the Department of Juvenile Justice
17 when the Department has custody or guardianship of the child or adolescent under [§
18 3-820] § 3-8A-19 of the Courts [and Judicial Proceedings] Article; or

19 **Article - Insurance**

20 19-515.

21 An insurer may not refuse to issue or renew a motor vehicle liability insurance
22 policy under this subtitle on the ground that the applicant has been issued a citation
23 under [§ 3-835] § 3-8A-32 of the Courts Article.

24 **Article - Natural Resources**

25 8-712.2.

26 (e) A juvenile charged with any violation under this section shall be charged
27 under Title 3, [Subtitle 8] SUBTITLE 8A of the Courts [and Judicial Proceedings]
28 Article.

29 **Article - Transportation**

30 16-206.

31 (b) (1) Upon notification by the clerk of the court that a child has been
32 adjudicated delinquent for a violation of § 21-902 of this article, or that a finding has
33 been made that a child violated § 21-902 of this article, the Administration shall

1 suspend or revoke the driving privilege of the child in accordance with [§
2 3-824(a)(4)(i)] § 3-8A-22(A)(4)(I) of the Courts Article.

3 (c) (1) Pursuant to a court order under [§ 3-820(d)] § 3-8A-19(D) of the
4 Courts Article, the Administration shall initiate an action to suspend the driving
5 privilege of a child for the time specified by the court.

6 (2) If a child subject to a suspension under [§ 3-820(d)] § 3-8A-19(D) of
7 the Courts Article does not hold a license to operate a motor vehicle on the date of the
8 court order, the suspension shall commence:

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

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

13 24-304.

14 (b) The charging of a person with a violation of this subtitle shall be by means
15 of a traffic citation in the form determined under [§ 3-835(b)] § 3-8A-32(B) of the
16 Courts Article.

17 **Article 27 - Crimes and Punishments**

18 402.

19 (a) Any person under the age of 18 years who violates [the provisions] ANY
20 PROVISION of this subheading shall be issued a citation by a police officer authorized
21 to make arrests and shall be subject to the procedures and dispositions provided in
22 [Subtitle 8] of Title 3, SUBTITLE 8A of the Courts [and Judicial Proceedings] Article.
23 406.

24 (c) An individual who violates [the provisions] ANY PROVISION of this section
25 shall be subject to the procedures and dispositions provided in Title 3, [Subtitle 8]
26 SUBTITLE 8A of the Courts [and Judicial Proceedings] Article.

27 594A.

28 (a) [In any case, except] EXCEPT as provided in subsection (b) OF THIS
29 SECTION, IN ANY CASE involving a child who has reached 14 years of age but has not
30 reached 18 years of age at the time of any alleged offense excluded under the
31 provisions of [§ 3-804(e)(1), (4), or (5)] § 3-803(D)(1), (4), OR (5) of the Courts [and
32 Judicial Proceedings] Article, the court exercising jurisdiction may transfer the case
33 to the juvenile court if a waiver is believed to be in the interests of the child or society.

34 (b) The court may not transfer a case to the juvenile court under subsection (a)
35 OF THIS SECTION if:

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

3 (2) The child was convicted in another unrelated case excluded from the
4 jurisdiction of the juvenile court under [§ 3-804(e)(1) or (4)] § 3-803(D)(1) OR (4) of the
5 Courts [and Judicial Proceedings] Article; or

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

8 737.

9 (b) (1) If a criminal charge was transferred to the juvenile court under §
10 594A of this article, a court shall grant a petition for expungement if:

11 (i) The charge transferred under § 594A of this article did not
12 result in the filing of a petition under [§ 3-810] § 3-8A-10 of the Courts [and Judicial
13 Proceedings] Article; or

14 (ii) The charge did result in the filing of a petition under [§ 3-810]
15 § 3-8A-10 of the Courts[and Judicial Proceedings] Article but the decision on the
16 petition was a finding of facts-not-sustained.

17 (2) (i) A petition for expungement of a criminal charge transferred to
18 the juvenile court under § 594A of this article may be filed at any time after:

19 1. If a petition is not filed under [§ 3-810] § 3-8A-10 of the
20 Courts Article, the date of the decision not to file a petition; or

21 2. If a petition is filed under [§ 3-810] § 3-8A-10 of the
22 Courts Article, the decision on a petition of facts-not-sustained.

23 (ii) If a charge transferred under § 594A of this article resulted in
24 the filing of a petition under [§ 3-810] § 3-8A-10 of the Courts [and Judicial
25 Proceedings] Article and the adjudication of the child as delinquent, the court may
26 grant a petition for expungement on or after the 21st birthday of the petitioner.

27 743.

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

32 (2) Data pertaining to a proceeding under [Subtitle 8 of] Title 3,
33 SUBTITLE 8A of the Courts Article [(Juvenile Causes)], but it does include:

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

1 (ii) Information described under § 747(a)(21) and (22) and § 747A of
2 this article; and
3 747.

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

5 (21) An adjudication of a child as delinquent:

6 (i) If the child is at least 14 years old, for an act described in [§
7 3-804(e)(1)] 3-803(D)(1) of the Courts [and Judicial Proceedings] Article; and

8 (ii) If the child is at least 16 years old, for an act described in [§
9 3-804(e)(4) or (5)] § 3-803(D)(4) OR (5) of the Courts [and Judicial Proceedings]
10 Article;

11 747A.

12 (c) (1) This subsection applies only to an adjudication of delinquency for a
13 child:

14 (i) Who is at least 14 years old, for an act described in [§
15 3-804(e)(1)] § 3-803(D)(1) of the Courts [and Judicial Proceedings] Article; or

16 (ii) Who is at least 16 years old, for an act described in [§
17 3-804(e)(4) or (5)] § 3-803(D)(4) OR (5) of the Courts [and Judicial Proceedings]
18 Article.

19 750A.

20 (a) Except as provided in subsection (b) of this section, notwithstanding any
21 other provision of this subtitle, no record may be maintained or disseminated in a
22 manner inconsistent with the provisions of [§ 3-828] § 3-8A-26 of the Courts [and
23 Judicial Proceedings] Article.

24 (b) Notwithstanding [§ 3-828(a)] § 3-8A-26 of the Courts [and Judicial
25 Proceedings] Article, a reportable event described under § 747(a)(21) and (22) of this
26 subtitle and fingerprinting of a child required under § 747A of this subtitle need not
27 be maintained separate and apart from those of adults.

28 763.

29 (d) A District Court commissioner or an intake officer, as defined in [§
30 3-801(o)] § 3-8A-01(N) of the Courts Article, may, for good cause shown, impose one or
31 more of the conditions described in subsection (b)(1) through (4) of this section as a
32 condition of the pretrial release of a defendant.

33 767.

34 A victim of a delinquent act committed by a juvenile has the rights provided
35 under [§ 3-810] § 3-3A-10 of the Courts Article.

1 773.

2 (b) This section applies to [a]:

3 (1) [Criminal] A CRIMINAL trial; and

4 (2) [Juvenile] A JUVENILE delinquency adjudicatory hearing which is
5 conducted in open court or which a victim or representative is entitled to attend under
6 [§ 3-812] § 3-8A-13(E) of the Courts Article.

7 (f) Nothing in this section may be construed to limit a victim's or
8 representative's right to attend a trial or a juvenile delinquency adjudicatory hearing
9 as provided by [§ 3-812] § 3-8A-13(E) of the Courts Article or § 857 of this article.

10 805A.

11 (e) "Crime" means an act committed by any person in the State which would
12 constitute a crime as defined in this article or at common law, a delinquent act as
13 defined in [§ 3-801] § 3-8A-01 of the Courts Article, or a violation of the
14 Transportation Article that is punishable by a term of confinement.

15 855.

16 (a) (5) "Convicted" means:

17 (ii) Found to have committed a delinquent act in a juvenile
18 proceeding conducted in accordance with Title 3, [Subtitle 8]SUBTITLE 8A of the
19 Courts Article; or

20 (g) A victim of an offense described under this section shall be notified of the
21 provisions of this section by:

22 (3) An intake officer who receives a complaint for the alleged commission
23 of an offense under [§ 3-810] § 3-8A-10 of the Courts Article.

24 **Article 31B - Patuxent Institution**

25 13.

26 (c) All State and local officials and agencies shall cooperate with the
27 Institution, and shall, promptly upon request, furnish or cause to be furnished to the
28 Institution the information, records, and reports in their possession in order that the
29 Institution may comply with this section. The provisions of [§ 3-828(b)] § 3-826 AND
30 3-8A-26 of the Courts Article do not apply with respect to a request made for juvenile
31 records pursuant to this section.

Article 83C - Juvenile Justice

2 2-101.

3 (b) It is the policy of the State that the Department comply with the provisions
4 of [§ 3-802] § 3-8A-02 of the Courts [and Judicial Proceedings] Article.

5 2-112.

6 Detention, adjudication, disposition, and place and period of commitment in
7 juvenile causes are governed by Title 3, [Subtitle 8] SUBTITLE 8A of the Courts
8 Article.

9 2-118.

10 (b) Subject to the provisions of Title 3, [Subtitle 8] SUBTITLE 8A of the Courts
11 Article, the Department shall:

12 (1) Adopt rules and regulations that set:

13 (i) Policies for admission, transfer, discharge, and aftercare
14 supervision; and

15 (ii) Standards of care, including provisions to administer any early,
16 periodic screening diagnosis and treatment program that the Department approves
17 for establishment under Title 42, § 1396d(a)(4)(B) of the United States Code and to
18 treat appropriately any condition that the screening reveals; and

19 (2) Order any needed changes in the policy, conduct, or management of a
20 facility to provide adequate care for the children and adequate services to the courts.

21 2-126.

22 (a) If requested by a court sitting as a juvenile court or by any other court in a
23 proceeding that involves the interest of a minor, the Department shall provide the
24 services described in this article.

25 (b) The Department shall provide the employees needed to supply such
26 services as may be required by order of a judge sitting as a juvenile court.

27 (c) The Department shall cooperate with the judges of the juvenile court in
28 carrying out the objectives of this article and Title 3, [Subtitle 8] SUBTITLE 8A of the
29 Courts [and Judicial Proceedings] Article.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not affect
31 the validity of any proceeding pending on the effective date of this Act and does not
32 affect the release, extinguishment, or alteration, wholly or partly, of any penalty,
33 forfeiture, or liability, whether civil or criminal, which shall have occurred under any
34 statute amended or repealed by this Act and such statute shall be treated as still
35 remaining in force for the purpose of sustaining any and all proper actions for the

1 enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order
2 that can be rendered in such action.

3 SECTION 4. AND BE IT FURTHER ENACTED, That the Committee Notes
4 contained in this Act are not law and may not be construed to have been enacted as
5 part of this Act.

6 SECTION 5. AND BE IT FURTHER ENACTED, That the provisions of this
7 Act repealing the requirement for county funding of C.A.S.A. programs shall take
8 effect beginning with the fiscal year in which funding to offset the county funding is
9 first enacted as part of the budget for the Judicial Branch.

10 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
11 Section 5 of this Act, this Act shall take effect October 1, 1999.