
By: **Delegate Montague**

Introduced and read first time: February 24, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Delinquent Acts and Probation Violations - Suspension of**
3 **Driving Privileges**

4 FOR the purpose of requiring the Secretary of Juvenile Justice to establish
5 procedures to monitor and record the results of drug and alcohol tests that a
6 child is required to undergo as a condition of the child's probation; authorizing
7 the court to order the Motor Vehicle Administration to initiate an action to
8 suspend the driving privilege of a child found to have committed a delinquent
9 act for a certain period of time, except under certain circumstances; specifying
10 the date that a license suspension shall commence if the child does not hold a
11 license to operate a motor vehicle on the date of the disposition; authorizing the
12 Department of Juvenile Justice to require a parent or guardian of a child to
13 request the Motor Vehicle Administration to suspend a child's driving privilege
14 or agree to place certain restrictions on the child's driving privilege if the child
15 violates a certain condition of probation; authorizing the Department of Juvenile
16 Justice to report an alleged violation of probation to the court under certain
17 circumstances; authorizing the court to order the Motor Vehicle Administration
18 to initiate an action to suspend the driving privilege of a child for a certain
19 period of time if the court determines that the child violated certain terms of the
20 child's probation; establishing that certain provisions of law regarding
21 laboratory drug and alcohol test results apply to a certain juvenile violation of
22 probation hearing; prohibiting the Motor Vehicle Administration from
23 reinstating the driving privilege of a child until the child meets certain
24 conditions precedent; and generally relating to the suspension of the driving
25 privileges of children found to have committed delinquent acts or violated
26 certain terms of probation.

27 BY repealing and reenacting, without amendments,
28 Article 83C - Juvenile Justice
29 Section 2-111
30 Annotated Code of Maryland
31 (1998 Replacement Volume)

32 BY repealing and reenacting, with amendments,
33 Article 83C - Juvenile Justice

1 Section 2-127
2 Annotated Code of Maryland
3 (1998 Replacement Volume)

4 BY adding to
5 Article - Courts and Judicial Proceedings
6 Section 3-820.1
7 Annotated Code of Maryland
8 (1998 Replacement Volume)

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-820(e), (f), (g), (h), (i), (j), and (k) and 10-914
12 Annotated Code of Maryland
13 (1998 Replacement Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Transportation
16 Section 16-206(c)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1998 Supplement)

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

21 **Article 83C - Juvenile Justice**

22 2-111.

23 (a) The Department is the central administrative Department for:

24 (1) Juvenile intake, detention authorization, investigation, probation,
25 protective supervision, and aftercare services; and

26 (2) The State juvenile, diagnostic, training, detention, and rehabilitation
27 institutions.

28 (b) The Department shall develop programs for the predelinquent child whose
29 behavior tends to lead to contact with law enforcement agencies.

30 (c) The Department may not administer any child welfare program of the
31 State Social Services Administration, including the Aid to Families with Dependent
32 Children Program and the Foster Care Program.

1 2-127.

2 (a) (1) The Secretary shall establish programs for juvenile intake,
3 investigation, probation, and aftercare services.

4 (2) THE SECRETARY SHALL ESTABLISH PROCEDURES TO MONITOR AND
5 RECORD THE RESULTS OF PERIODIC OR RANDOM DRUG AND ALCOHOL TESTS THAT A
6 CHILD PLACED ON PROBATION UNDER § 3-820 OF THE COURTS ARTICLE IS REQUIRED
7 TO UNDERGO AS A CONDITION OF THE CHILD'S PROBATION.

8 (b) (1) The Secretary shall provide sufficient staff to operate the programs
9 AND IMPLEMENT THE PROCEDURES ESTABLISHED under subsection (a) of this
10 section.

11 (2) The staff of the Department are under the immediate direction and
12 control of the Secretary.

13 **Article - Courts and Judicial Proceedings**

14 3-820.

15 (e) (1) EXCEPT AS PROVIDED IN § 3-824 OF THIS SUBTITLE, IN MAKING A
16 DISPOSITION ON A FINDING THAT A CHILD HAS COMMITTED A DELINQUENT ACT,
17 THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN
18 ACTION UNDER THE MARYLAND VEHICLE LAW TO SUSPEND THE DRIVING PRIVILEGE
19 OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE
20 ADMINISTRATION:

21 (I) FOR A FIRST OFFENSE, FOR 6 MONTHS; AND

22 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, UNTIL THE CHILD IS
23 21 YEARS OLD.

24 (2) IF A CHILD SUBJECT TO A SUSPENSION UNDER THIS SUBSECTION
25 DOES NOT HOLD A LICENSE TO OPERATE A MOTOR VEHICLE ON THE DATE OF THE
26 DISPOSITION, THE SUSPENSION SHALL COMMENCE:

27 (I) IF THE CHILD IS AT LEAST 16 YEARS OLD ON THE DATE OF THE
28 DISPOSITION, ON THE DATE OF THE DISPOSITION; OR

29 (II) IF THE CHILD IS UNDER THE AGE OF 16 YEARS ON THE DATE OF
30 THE DISPOSITION, ON THE DATE OF THE CHILD'S 16TH BIRTHDAY.

31 (F) A guardian appointed under this section has no control over the property of
32 the child unless [he] THE CHILD receives that express authority from the court.

33 [(f)] (G) The court may impose reasonable court costs against a respondent, or
34 the respondent's parent, guardian, or custodian, against whom a finding of
35 delinquency has been entered under the provisions of this section.

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

3 [(h)] (I) The court may not commit a child to the custody of the Department of
4 Health and Mental Hygiene for inpatient care and treatment in a State mental
5 hospital unless the court finds on the record based upon clear and convincing
6 evidence that:

7 (1) The child has a mental disorder;

8 (2) The child needs inpatient medical care or treatment for the
9 protection of [himself] THE CHILD or others;

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

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

14 [(i)] (J) The court may not commit a child to the custody of the Department of
15 Health and Mental Hygiene for inpatient care and treatment in a State mental
16 retardation facility unless the court finds on the record based upon clear and
17 convincing evidence that:

18 (1) The child is mentally retarded;

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

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

23 [(j)] (K) (1) Any commitment order issued under subsection [(h)] (I) or [(i)]
24 (J) of this section shall require the Department of Health and Mental Hygiene to file
25 progress reports with the court at intervals no greater than every 6 months during
26 the life of the order. The Department of Health and Mental Hygiene shall provide the
27 child's attorney of record with a copy of each report. The court shall review each
28 report promptly and consider whether the commitment order should be modified or
29 vacated. After the first 6 months of the commitment and at 6-month intervals
30 thereafter upon the request of any party, the Department or facility, the court shall
31 grant a hearing for the purpose of determining if the standard in subsection [(h)] (I)
32 or [(i)] (J) continues to be met.

33 (2) At any time after the commitment of the child to a State mental
34 hospital if the individualized treatment plan developed under § 10-706 of the Health
35 - General Article recommends that a child no longer meets the standards in
36 subsection [(h)] (I), then the court shall grant a hearing to review the commitment
37 order. The court may grant a hearing at any other time for the purpose of determining
38 if the standard in subsection [(h)] (I) continues to be met.

1 (3) Any time after the commitment of the child to a State mental
2 retardation facility if the individualized plan of habilitation developed under § 7-1006
3 of the Health - General Article recommends that a child no longer meets the
4 standards in subsection [(i)] (J), then the court shall grant a hearing to review the
5 commitment order. The court may grant a hearing at any other time for the purpose
6 of determining if the standard in subsection [(i)] (J) continues to be met.

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

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

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

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

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

20 3-820.1.

21 (A) IF THE DEPARTMENT OF JUVENILE JUSTICE DETERMINES THAT A CHILD
22 SUBJECT TO ALCOHOL OR DRUG TESTING AS A CONDITION OF PROBATION IMPOSED
23 BY THE COURT UNDER § 3-820 OF THIS SUBTITLE HAS VIOLATED THE TERMS OF THE
24 PROBATION BY FAILING TO SUBMIT TO REQUIRED TESTING OR FAILING A DRUG OR
25 ALCOHOL TEST, THE DEPARTMENT MAY REQUIRE THE PARENT OR GUARDIAN OF
26 THE CHILD TO:

27 (1) MAKE A WRITTEN REQUEST TO THE MOTOR VEHICLE
28 ADMINISTRATION THAT THE DRIVING PRIVILEGE OF THE CHILD BE SUSPENDED IN
29 ACCORDANCE WITH § 16-108 OF THE TRANSPORTATION ARTICLE FOR A SPECIFIC
30 PERIOD OF TIME DETERMINED BY THE DEPARTMENT; OR

31 (2) AGREE TO PLACE APPROPRIATE RESTRICTIONS ON THE DRIVING
32 PRIVILEGE OF THE CHILD.

33 (B) IF THE PARENT OR GUARDIAN OF THE CHILD REFUSES TO COMPLY WITH
34 THE REQUIREMENTS OF SUBSECTION (A)(1) OR (2) OF THIS SECTION, THE
35 DEPARTMENT OF JUVENILE JUSTICE MAY REPORT THE ALLEGED VIOLATION OF
36 PROBATION TO THE COURT FOR A HEARING TO DETERMINE WHETHER THE CHILD
37 VIOLATED THE TERMS OF THE CHILD'S PROBATION.

38 (C) (1) IF THE COURT DETERMINES THAT THE CHILD VIOLATED THE TERMS
39 OF THE CHILD'S PROBATION UNDER THIS SECTION, THE COURT MAY ORDER THE

1 MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION UNDER THE MARYLAND
2 VEHICLE LAW TO SUSPEND THE DRIVING PRIVILEGE OF THE CHILD:

3 (I) FOR A FIRST PROBATION VIOLATION, FOR 90 DAYS; OR

4 (II) FOR A SECOND OR SUBSEQUENT PROBATION VIOLATION, FOR 6
5 MONTHS.

6 (2) IF A CHILD SUBJECT TO A SUSPENSION UNDER THIS SECTION DOES
7 NOT HOLD A LICENSE TO OPERATE A MOTOR VEHICLE ON THE DATE OF THE
8 DISPOSITION, THE SUSPENSION SHALL COMMENCE:

9 (I) IF THE CHILD IS AT LEAST 16 YEARS OLD ON THE DATE OF THE
10 DISPOSITION, ON THE DATE OF THE DISPOSITION; OR

11 (II) IF THE CHILD IS UNDER THE AGE OF 16 YEARS ON THE DATE OF
12 THE DISPOSITION, ON THE DATE OF THE CHILD'S 16TH BIRTHDAY.

13 (D) THE PROVISIONS OF § 10-914 OF THE COURTS ARTICLE SHALL APPLY TO A
14 VIOLATION OF PROBATION HEARING UNDER THIS SECTION.

15 10-914.

16 (a) A laboratory test, performed by a laboratory certified by the Department of
17 Health and Mental Hygiene and approved by the Division of Parole and Probation of
18 the Department of Public Safety and Correctional Services OR BY THE DEPARTMENT
19 OF JUVENILE JUSTICE, indicating that the defendant OR THE RESPONDENT IN A
20 JUVENILE PROCEEDING has used a controlled dangerous substance as defined in
21 Article 27 of the Code or alcohol in violation of a condition of the defendant's probation
22 or work release OR THE RESPONDENT'S PROBATION, is sufficiently reliable to justify
23 revocation of the defendant's probation or work release OR THE RESPONDENT'S
24 PROBATION, without an expert witness from the laboratory testifying in court to
25 support the contents of a report of the laboratory test.

26 (b) A report of a laboratory test described under this section shall:

27 (1) Identify the chemist or analyst who performed the laboratory test as
28 an individual qualified, under standards approved by the Department of Health and
29 Mental Hygiene, to perform the laboratory test;

30 (2) Be signed by the chemist or analyst who performed the laboratory
31 test; and

32 (3) Contain a statement that:

33 (i) The material delivered to the chemist or analyst who performed
34 the laboratory test was properly tested under procedures and equipment approved by
35 the Department of Health and Mental Hygiene;

36 (ii) The procedures of the laboratory test are reliable; and

1 (iii) The laboratory test indicates that the defendant OR THE
2 RESPONDENT used a controlled dangerous substance or alcohol.

3 (c) A report of a laboratory test is prima facie evidence of the results of the
4 laboratory test.

5 (d) Nothing in this section precludes the right of any party to introduce any
6 evidence that supports or contradicts the evidence contained in or the presumptions
7 raised by the report of the laboratory test described under subsection (b) of this
8 section.

9 (e) Subject to the provisions of subsection (f) of this section, if a laboratory
10 report or statement is admitted in evidence, the chemist or analyst who performed the
11 laboratory test is subject to cross-examination by any party to the proceeding.

12 (f) (1) On written demand of a defendant OR A RESPONDENT filed in the
13 proceeding at least 5 days before the hearing to revoke a defendant's probation or
14 work release OR A RESPONDENT'S PROBATION, the prosecution shall require the
15 presence of the chemist or analyst who performed the test or any individual in the
16 chain of custody or control as a prosecution witness.

17 (2) The provisions of subsections (a), (b), and (c) of this section
18 concerning prima facie evidence do not apply to the testimony of a witness whose
19 presence is required under this subsection.

20 (3) Subsections (a), (b), and (c) of this section apply in a proceeding to
21 revoke a defendant's probation or work release OR A RESPONDENT'S PROBATION only
22 when a copy of the report of the laboratory test or the statement to be introduced is
23 mailed, delivered, or made available to counsel for the defendant OR THE
24 RESPONDENT or to the defendant OR THE RESPONDENT personally when the
25 defendant OR THE RESPONDENT is not represented by counsel, at least 10 days prior
26 to the introduction of the report of the laboratory test or the statement at the hearing.

27 **Article - Transportation**

28 16-206.

29 (c) (1) Pursuant to a court order under § 3-820(d) OR (E) OR § 3-820.1 of the
30 Courts Article, the Administration shall initiate an action to suspend the driving
31 privilege of a child for the time specified by the court.

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

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

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

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

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

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

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

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

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

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

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

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

24 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
25 ADMINISTRATION MAY NOT REINSTATE THE DRIVING PRIVILEGE OF A CHILD THAT
26 WAS SUSPENDED IN ACCORDANCE WITH § 3-820.1 OF THE COURTS ARTICLE UNTIL
27 THE CHILD:

28 (I) COMPLETES A DRUG AND ALCOHOL ABUSE AND EDUCATION
29 PROGRAM APPROVED BY THE ADMINISTRATION; AND

30 (II) DEMONSTRATES TO THE SATISFACTION OF THE
31 ADMINISTRATION THAT THE CHILD HAS COMPLIED WITH THE TERMS OF THE
32 CHILD'S PROBATION:

33 1. FOR A FIRST PROBATION VIOLATION, FOR AT LEAST 90
34 DAYS IMMEDIATELY PRECEDING THE APPLICATION FOR REINSTATEMENT; AND

35 2. FOR A SECOND OR SUBSEQUENT VIOLATION, FOR AT
36 LEAST 6 MONTHS IMMEDIATELY PRECEDING THE APPLICATION FOR
37 REINSTATEMENT.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1999.