

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1088

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike "Commission on"; in the same line, after "Justice" insert "Disciplinary and Grievance Advisory Commission"; strike beginning with "establishing" in line 3 down through "Justice" in line 29 and substitute "establishing the State Juvenile Justice Disciplinary and Grievance Advisory Commission to inform and advise the Secretary of Juvenile Justice on issues regarding the care and supervision of children under the jurisdiction of the Department of Juvenile Justice; requiring the Department to adopt a certain policy; requiring the Department to cooperate with the Commission and Area Advocacy Boards in a certain manner; specifying the membership of the Commission; providing for the terms of office of the members of the Commission; providing for the appointment of certain members of the Commission; providing for a certain meeting schedule for the Commission; establishing that a majority of the Commission constitutes a quorum for a certain purpose; prohibiting a member of the Commission from receiving compensation; authorizing a member of the Commission to receive reimbursement for certain expenses; establishing certain duties of the Commission; authorizing the Commission to take certain actions; requiring the Commission to employ certain staff; providing for certain salaries and expenses; requiring the Commission to set certain salaries, qualifications, and standards in a certain manner; establishing certain duties of a commission monitor; establishing Area Advocacy Boards within the Commission; specifying the membership of each Area Advocacy Board; providing for the appointment of a chairman of each Area Advocacy Board; providing for the terms of a member of an Area Advocacy Board; prohibiting a member of an Area Advocacy Board from receiving compensation; authorizing a member of an Area Advocacy Board to receive reimbursement for certain expenses; providing for a certain meeting schedule for an Area Advocacy Board; providing for staff support for an Area Advocacy Board; establishing the duties of an Area Advocacy Board; specifying the terms of the initial members of the Commission and Area Advocacy Boards; defining certain terms; and generally relating to the State Juvenile Justice Disciplinary and Grievance Advisory Commission".

On page 2, in line 4, strike "5-110" and substitute "5-107"; in line 5, strike "Commission on";

(Over)

in the same line, after "Justice" insert "Disciplinary and Grievance Advisory Commission"; and strike in their entirety lines 8 through 17, inclusive.

AMENDMENT NO. 2

On pages 2 through 11, strike in their entirety the lines beginning with line 18 on page 2 through line 10 on page 11, inclusive and substitute:

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

Article 83C - Juvenile Justice

1-101.

(a) In this article the following words have the meanings indicated.

(b) "Department" means the Department of Juvenile Justice.

(c) "County" means a county of this State and, unless expressly provided otherwise,
Baltimore City.

(D) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION OR
ALTERATION IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULTS IN MORE
SECURITY, ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM.

(E) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON BEHALF
OF A CHILD BY A PARENT, GUARDIAN, OR ATTORNEY FOR THE CHILD DUE TO A
CIRCUMSTANCE OR ACTION CONSIDERED TO BE UNJUST.

[~~(d)~~] (F) "Secretary" means the Secretary of the Department of Juvenile Justice.

[~~(e)~~] (G) "Person" means an individual, receiver, trustee, guardian, personal representative,
fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other
entity.

[(f)] (H) "State" means:

- (1) A state, possession, or territory of the United States;
- (2) The District of Columbia; or
- (3) The Commonwealth of Puerto Rico.

[(g)] (I) "State Advisory Board" means the State Advisory Board for Juvenile Justice.

2-118.

(a) Each facility provided for in § 2-117 of this article shall operate under the control and general management of the Department.

(b) Subject to the provisions of Title 3, Subtitle 8 of the Courts Article, the Department shall:

(1) Adopt rules and regulations that set:

(i) Policies for admission, transfer, discharge, and aftercare supervision;

and

(ii) Standards of care, including provisions to administer any early, periodic screening diagnosis and treatment program that the Department approves for establishment under Title 42, § 1396d(a)(4)(B) of the United States Code and to treat appropriately any condition that the screening reveals; and

(2) Order any needed changes in the policy, conduct, or management of a facility to provide adequate care for the children and adequate services to the courts.

(c) The Department shall adopt regulations applicable to residential facilities it operates that:

(Over)

(1) Prohibit the use of locked door seclusion and restraints as punishment, and describe the circumstances under which locked door seclusion and restraints may be used; and

(2) Prohibit abuse of a child.

(D) (1) THE DEPARTMENT SHALL ADOPT A POLICY FOR ADDRESSING DISCIPLINARY ACTIONS AND GRIEVANCES WITHIN ITS FACILITIES.

(2) THE POLICY SHALL:

(I) REQUIRE PREPARATION OF A WRITTEN REPORT OF ANY DISCIPLINARY ACTION TAKEN AGAINST A CHILD OR ANY GRIEVANCE, WHICH SHALL BE FORWARDED TO THE ADMINISTRATIVE HEAD OF THE FACILITY;

(II) REQUIRE THE ADMINISTRATIVE HEAD OF EACH FACILITY TO REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS AND GRIEVANCES; AND

(III) REQUIRE THE DEPARTMENT TO FORWARD IN A TIMELY MANNER ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE DISPOSITIONS FROM EACH FACILITY TO THE COMMISSION MONITOR ASSIGNED TO THE FACILITY IN ACCORDANCE WITH TITLE 5 OF THIS ARTICLE.

[(d)] (E) The Department shall develop within each facility special programs that are designed to meet the particular needs of its population.

[(e)] (F) The Department shall develop and provide within each facility:

(1) Educational programs that are designed to meet the particular needs of its population;

(2) Alcohol abuse and drug abuse assessment services; and

(3) Either alcohol abuse and drug abuse referral services or an alcohol abuse and drug abuse treatment program that has been certified in accordance with the requirements of Title 8

of the Health - General Article.

(G) THE DEPARTMENT SHALL COOPERATE WITH THE STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY COMMISSION AND AREA ADVOCACY BOARDS ESTABLISHED IN TITLE 5 OF THIS ARTICLE BY:

(1) PROVIDING TO THE COMMISSION, COMMISSION MONITORS, AND AREA ADVOCACY BOARDS ACCESS TO ALL FACILITIES, REPORTS, AND RECORDS NECESSARY FOR THE MONITORING OF FACILITIES AND PROGRAMS IN ACCORDANCE WITH TITLE 5 OF THIS ARTICLE;

(2) PROVIDING A REPRESENTATIVE, WHEN REQUESTED, AT ANY MEETING CONDUCTED BY THE COMMISSION OR AN AREA ADVOCACY BOARD; AND

(3) REPORTING TO THE COMMISSION ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO ANY PROBLEM IDENTIFIED BY THE COMMISSION REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT.

TITLE 5. STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY COMMISSION.

5-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AREA" MEANS THE DEPARTMENT'S DESIGNATED GEOGRAPHIC DIVISION WITHIN THE STATE FOR THE PURPOSE OF ADMINISTERING INTAKE, DETENTION, PROBATION, AND AFTERCARE FOR DELINQUENT CHILDREN.

(C) "COMMISSION" MEANS THE STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY COMMISSION.

(Over)

(D) "FACILITY" MEANS:

(1) RESIDENTIAL AND NONRESIDENTIAL FACILITIES OPERATED BY THE DEPARTMENT; AND

(2) SECURE RESIDENTIAL FACILITIES OPERATED BY PRIVATE ENTITIES UNDER CONTRACT WITH THE DEPARTMENT.

(E) "COMMISSION MONITOR" MEANS AN INDIVIDUAL EMPLOYED BY THE COMMISSION TO DETERMINE WHETHER THE NEEDS OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT ARE BEING MET IN COMPLIANCE WITH STATE LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT THEY ARE NOT BEING ABUSED.

5-102.

(A) THERE IS A STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY COMMISSION, INDEPENDENT FROM THE DEPARTMENT, THAT SHALL INFORM AND ADVISE THE SECRETARY ON ISSUES REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT.

(B) THE COMMISSION SHALL CONSIST OF:

(1) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE MEMBER OF THE SENATE OF MARYLAND, RECOMMENDED BY THE PRESIDENT OF THE SENATE;

(II) ONE MEMBER OF THE HOUSE OF DELEGATES, RECOMMENDED BY THE SPEAKER OF THE HOUSE;

(III) ONE REPRESENTATIVE OF THE STATE JUDICIARY WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES;

(IV) ONE REPRESENTATIVE OF A COMMUNITY BASED ADVOCACY GROUP WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES, RECOMMENDED BY ADVOCATES FOR CHILDREN AND YOUTH;

(V) ONE REPRESENTATIVE OF THE PUBLIC DEFENDER'S OFFICE WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES;

(VI) ONE REPRESENTATIVE OF A LAW ENFORCEMENT AGENCY WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES ON A STATEWIDE BASIS; AND

(VII) ONE REPRESENTATIVE FROM THE GENERAL PUBLIC WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES; AND

(2) THE CHAIRMAN OF EACH AREA ADVOCACY BOARD ESTABLISHED IN ACCORDANCE WITH § 5-106 OF THIS TITLE.

(C) (1) THE TERM OF A MEMBER OF THE COMMISSION IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2000.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) (1) FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR SHALL APPOINT A CHAIRMAN.

(2) FROM AMONG THE MEMBERS OF THE COMMISSION, THE

(Over)

COMMISSION CHAIRMAN SHALL APPOINT A COMMISSION SECRETARY.

(3) THE COMMISSION SECRETARY SHALL KEEP FULL AND ACCURATE MINUTES OF EACH COMMISSION MEETING.

(E) (1) THE COMMISSION SHALL MEET REGULARLY AT LEAST ONCE PER MONTH ON THE CALL OF ITS CHAIRMAN.

(2) A MAJORITY OF THE COMMISSION SHALL CONSTITUTE A QUORUM FOR THE PURPOSE OF HOLDING A MEETING.

(F) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

5-103.

(A) THE COMMISSION SHALL:

(1) MONITOR FACILITIES AND PROGRAMS OPERATED BY THE DEPARTMENT ON ISSUES REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT;

(2) RECEIVE INFORMATION FROM COMMISSION MONITORS AND AREA ADVOCACY BOARDS AS PROVIDED IN THIS SUBTITLE;

(3) GATHER INFORMATION ON ISSUES REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT FROM VARIOUS SOURCES, INCLUDING:

(I) MEMBERS OF THE PUBLIC;

(II) JUVENILE JUSTICE SYSTEM PERSONNEL;

(III) ADVOCATES; AND

(IV) FAMILIES AND CHILDREN INVOLVED IN THE JUVENILE JUSTICE SYSTEM;

(4) PUBLISH REGULAR AND PERIODIC REPORTS ON ITS FINDINGS;

(5) OVERSEE THE ACTIVITIES OF AND REVIEW REPORTS FROM THE AREA ADVOCACY BOARDS; AND

(6) ON OR BEFORE OCTOBER 1 OF EACH YEAR, REPORT ITS FINDINGS AND RECOMMENDATIONS TO:

(I) THE GOVERNOR;

(II) THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE;

(III) THE CHIEF JUDGE OF THE COURT OF APPEALS; AND

(IV) THE SECRETARY.

(B) IN PERFORMING ITS DUTIES UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION MAY:

(1) ACCESS APPROPRIATE INFORMATION CONCERNING CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT;

(2) CONDUCT PUBLIC HEARINGS;

(3) PERFORM SITE VISITS AND ON-SITE INSPECTIONS OF FACILITIES;

AND

(Over)

(4) REPORT TO THE SECRETARY KNOWLEDGE OF ANY PROBLEM REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT.

5-104.

(A) THE COMMISSION SHALL EMPLOY A FULL-TIME EXECUTIVE DIRECTOR, TWO ADMINISTRATIVE ASSISTANTS, AND THREE COMMISSION MONITORS TO CARRY OUT THE WORK OF THE COMMISSION.

(B) ALL SALARIES FOR THE EXECUTIVE DIRECTOR AND STAFF AND EXPENSES FOR RENT, STATIONERY, POSTAGE, AND MISCELLANEOUS OFFICE MATERIALS NECESSARY FOR THE WORK OF THE COMMISSION SHALL BE AS PROVIDED IN THE STATE BUDGET.

(C) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT, THE COMMISSION SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS WITH THE COMMISSION.

5-105.

(A) EACH COMMISSION MONITOR SHALL BE ASSIGNED TO SPECIFIC FACILITIES AND PROGRAMS OPERATED BY THE DEPARTMENT.

(B) A COMMISSION MONITOR SHALL:

(1) RECEIVE FROM THE DEPARTMENT FOR EACH FACILITY TO WHICH THE MONITOR IS ASSIGNED REPORTS OF ALL DISCIPLINARY ACTIONS AND GRIEVANCES;

(2) REVIEW ALL REPORTS RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

(3) INFORM THE SECRETARY WHEN THERE IS A NEED TO INITIATE ACTIONS WITH APPROPRIATE AUTHORITIES TO REMEDY ANY IMMEDIATE THREAT TO A CHILD;

(4) REPORT MONTHLY TO THE COMMISSION ON ALL MONITORING ACTIVITIES; AND

(5) REPORT QUARTERLY ON ALL MONITORING ACTIVITIES TO THE AREA ADVOCACY BOARDS FOR THE AREAS IN WHICH THE FACILITIES TO WHICH THE COMMISSION MONITOR IS ASSIGNED ARE LOCATED.

5-106.

(A) THERE IS ESTABLISHED WITHIN THE COMMISSION AN AREA ADVOCACY BOARD FOR EACH AREA IN THE STATE.

(B) EACH AREA ADVOCACY BOARD SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE CHAIRMAN OF THE COMMISSION, SUBJECT TO CONFIRMATION BY THE COMMISSION, AS FOLLOWS:

(1) ONE REPRESENTATIVE OF A COMMUNITY-BASED ADVOCACY GROUP WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

(2) ONE REPRESENTATIVE OF THE AREA'S LOCAL GOVERNMENT WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

(3) ONE REPRESENTATIVE OF AN AREA NONPROFIT GROUP WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

(4) ONE REPRESENTATIVE OF AN AREA EDUCATION OR MENTAL HEALTH AGENCY WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES; AND

(Over)

(5) ONE REPRESENTATIVE OF AN AREA BAR ASSOCIATION.

(C) FROM AMONG THE MEMBERS, THE CHAIRMAN OF THE COMMISSION SHALL APPOINT A CHAIRMAN OF EACH AREA ADVOCACY BOARD.

(D) (1) THE TERM OF A MEMBER OF AN AREA ADVOCACY BOARD IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARDS ON OCTOBER 1, 2000.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(E) A MEMBER OF AN AREA ADVOCACY BOARD MAY NOT RECEIVE COMPENSATION, BUT IS ENTITLED TO REIMBURSEMENT UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE AREA ADVOCACY BOARDS SHALL MEET AT LEAST QUARTERLY, BUT MORE OFTEN IF DETERMINED NECESSARY BY THE COMMISSION.

(G) THE AREA ADVOCACY BOARDS SHALL RECEIVE STAFF SUPPORT FROM THE COMMISSION.

5-107.

(A) THE AREA ADVOCACY BOARDS SHALL REVIEW THE QUARTERLY REPORTS OF THE COMMISSION MONITORS TO DETERMINE WHETHER THERE IS A PATTERN OF ABUSE, NEGLECT, FAILURE TO FOLLOW PROCEDURES, INAPPROPRIATE DISCIPLINARY ACTION, OR OTHER SYSTEMIC FAILINGS WITHIN THE FACILITIES OR

PROGRAMMING OF THE DEPARTMENT OR AMONG ONE OR MORE RESIDENTIAL STAFF.

(B) EACH AREA ADVOCACY BOARD SHALL FORWARD IN A TIMELY MANNER A COPY OF THE QUARTERLY REPORT OF THE COMMISSION MONITORS WITH A REPORT OF THE AREA ADVOCACY BOARD'S FINDINGS TO THE CHAIRMAN OF THE COMMISSION AND TO THE SECRETARY OF THE DEPARTMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the members of the State Commission on Juvenile Justice shall expire as follows:

- (1) five members in 2001;
- (2) four members in 2002; and
- (3) five members in 2003.

SECTION 3. AND BE IT FURTHER ENACTED, That the initial terms of the members of each Area Advocacy Board shall expire as follows:

- (1) two members in 2001;
- (2) one member in 2002; and
- (3) two members in 2003.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2000."