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By: **Delegates Marriott, Benson, Grosfeld, Howard, V. Jones, Kirk,  
Nathan-Pulliam, Patterson, Phillips, and Proctor**

Introduced and read first time: February 3, 2000

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the exclusive jurisdiction of the juvenile court to  
4 include proceedings involving certain children alleged to have committed certain  
5 acts; repealing provisions of law authorizing a court exercising criminal  
6 jurisdiction to transfer jurisdiction to a juvenile court under certain  
7 circumstances; repealing provisions of law prohibiting a court exercising  
8 criminal jurisdiction from transferring jurisdiction to a juvenile court under  
9 certain circumstances; making certain conforming changes; providing for the  
10 applicability of this Act; and generally relating to the jurisdiction of the juvenile  
11 court.

12 BY repealing  
13 Article 27 - Crimes and Punishments  
14 Section 594A  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article 27 - Crimes and Punishments  
19 Section 747(a)(21) and 747A(c)  
20 Annotated Code of Maryland  
21 (1996 Replacement Volume and 1999 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Courts and Judicial Proceedings  
24 Section 3-804  
25 Annotated Code of Maryland  
26 (1998 Replacement Volume and 1999 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article - Courts and Judicial Proceedings

1 Section 3-817  
2 Annotated Code of Maryland  
3 (1998 Replacement Volume and 1999 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - Education  
6 Section 7-303(a)  
7 Annotated Code of Maryland  
8 (1999 Replacement Volume)

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

11 **Article 27 - Crimes and Punishments**

12 [594A.

13 (a) In this section, "victim" has the meaning stated in § 3-801 of the Courts  
14 Article.

15 (b) In any case, except as provided in subsection (c) of this section, involving a  
16 child who has reached 14 years of age but has not reached 18 years of age at the time  
17 of any alleged offense excluded under the provisions of § 3-804(e)(1), (4), or (5) of the  
18 Courts and Judicial Proceedings Article, the court exercising jurisdiction may  
19 transfer the case to the juvenile court if a waiver is believed to be in the interests of  
20 the child or society.

21 (c) The court may not transfer a case to the juvenile court under subsection (b)  
22 of this section if:

23 (1) The child has previously been waived to juvenile court and  
24 adjudicated delinquent;

25 (2) The child was convicted in another unrelated case excluded from the  
26 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts and Judicial  
27 Proceedings Article; or

28 (3) The alleged offense is murder in the first degree and the accused  
29 child is 16 or 17 at the time the alleged offense was committed.

30 (d) In making a determination as to waiver of jurisdiction the court shall  
31 consider the following:

32 (1) Age of child;

33 (2) Mental and physical condition of child;

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

1 (4) The nature of the alleged offense; and

2 (5) The public safety.

3 (e) For the purpose of making its determination, the court may request that a  
4 study concerning the child, the child's family, the child's environment, and other  
5 matters relevant to the disposition of the case be made.

6 (f) If the jurisdiction is waived, the court may order the person held for trial  
7 under the regular procedures of the juvenile court.

8 (g) The court may order a minor to be held in a juvenile facility pending a  
9 determination under this section to waive jurisdiction over the case involving the  
10 minor to the juvenile court.

11 (h) (1) (i) A victim may submit a victim impact statement to the court as  
12 provided in § 781 of this article.

13 (ii) This paragraph does not preclude a victim who has not filed a  
14 notification request form under § 770 of this article from submitting a victim impact  
15 statement to the court.

16 (iii) The court may consider a victim impact statement in  
17 determining whether to waive jurisdiction under this section.

18 (2) A victim shall be given notice of the waiver hearing as provided under  
19 § 770 of this article.]

20 747.

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

22 (21) An adjudication of a child as delinquent:

23 (i) If the child is at least 14 years old, for an act [described in §  
24 3-804(e)(1) of the Courts and Judicial Proceedings Article] WHICH, IF COMMITTED BY  
25 AN ADULT, WOULD BE A CRIME PUNISHABLE BY DEATH OR LIFE IMPRISONMENT;  
26 [and]

27 (ii) If the child is at least 16 years old, for an act [described in §  
28 3-804(e)(4) or (5) of the Courts and Judicial Proceedings Article;] WHICH, IF  
29 COMMITTED BY AN ADULT, WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

30 1. ABDUCTION;

31 2. KIDNAPPING;

32 3. SECOND DEGREE MURDER;

33 4. MANSLAUGHTER, EXCEPT INVOLUNTARY  
34 MANSLAUGHTER;



1 (ii) Who is at least 16 years old, for an act [described in §  
2 3-804(e)(4) or (5) of the Courts and Judicial Proceedings Article.] WHICH, IF  
3 COMMITTED BY AN ADULT, WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

- 4 1. ABDUCTION;
- 5 2. KIDNAPPING;
- 6 3. SECOND DEGREE MURDER;
- 7 4. MANSLAUGHTER, EXCEPT INVOLUNTARY  
8 MANSLAUGHTER;
- 9 5. SECOND DEGREE RAPE;
- 10 6. ROBBERY WITH A DANGEROUS OR DEADLY WEAPON;
- 11 7. SECOND DEGREE SEXUAL OFFENSE IN VIOLATION OF  
12 ARTICLE 27, § 464A(A)(1) OF THE CODE;
- 13 8. THIRD DEGREE SEXUAL OFFENSE IN VIOLATION OF  
14 ARTICLE 27, § 464B(A)(1) OF THE CODE;
- 15 9. A CRIME IN VIOLATION OF ARTICLE 27, § 36B, § 373, § 374, §  
16 445, § 446, OR § 481C OF THE CODE;
- 17 10. USING, WEARING, CARRYING, OR TRANSPORTING OF  
18 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME IN VIOLATION  
19 OF ARTICLE 27, § 281A OF THE CODE;
- 20 11. USE OF A FIREARM IN VIOLATION OF ARTICLE 27, § 291A  
21 OF THE CODE;
- 22 12. CARJACKING OR ARMED CARJACKING IN VIOLATION OF  
23 ARTICLE 27, § 348A OF THE CODE;
- 24 13. ASSAULT IN THE FIRST DEGREE IN VIOLATION OF  
25 ARTICLE 27, § 12A-1 OF THE CODE;
- 26 14. ATTEMPTED MURDER IN THE SECOND DEGREE IN  
27 VIOLATION OF ARTICLE 27, § 411A OF THE CODE;
- 28 15. ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN  
29 THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE; OR
- 30 16. ATTEMPTED ROBBERY WITH A DANGEROUS OR DEADLY  
31 WEAPON UNDER ARTICLE 27, § 488 OF THE CODE; OR

32 (III) WHO IS AT LEAST 16 YEARS OLD, FOR AN ACT THAT WOULD BE A  
33 FELONY IF COMMITTED BY AN ADULT IF THE CHILD PREVIOUSLY HAS BEEN  
34 CONVICTED AS AN ADULT OF A FELONY.



1            [~~(3)~~]   (2)    A child at least 16 years old alleged to have done an act in  
2 violation of any provision of law, rule, or regulation governing the use or operation of  
3 a boat, except an act that prescribes a penalty of incarceration[;].

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

8                   (i)    Abduction;

9                   (ii)   Kidnapping;

10                  (iii)   Second degree murder;

11                  (iv)   Manslaughter, except involuntary manslaughter;

12                  (v)    Second degree rape;

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

14                  (vii)   Second degree sexual offense in violation of Article 27, §  
15 464A(a)(1) of the Code;

16                  (viii)   Third degree sexual offense in violation of Article 27, §  
17 464B(a)(1) of the Code;

18                  (ix)    A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §  
19 446, or § 481C of the Code;

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

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

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

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

27                  (xiv)   Attempted murder in the second degree in violation of Article  
28 27, § 411A of the Code;

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

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

1           (5)     A child who previously has been convicted as an adult of a felony and  
2 is subsequently alleged to have committed an act that would be a felony if committed  
3 by an adult, unless an order removing the proceeding to the court has been filed  
4 under Article 27, § 594A of the Code.]

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

10 3-817.

11           (a)     The court may waive the exclusive jurisdiction conferred by § 3-804 of this  
12 subtitle with respect to a petition alleging delinquency by:

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

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

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

21           (c)     (1)     Notice of the waiver hearing shall be given to a victim as provided  
22 under Article 27, § 770 of the Code.

23                         (2)     (i)     A victim may submit a victim impact statement to the court as  
24 provided in Article 27, § 781 of the Code.

25                                 (ii)     This paragraph does not preclude a victim who has not filed a  
26 notification request form under Article 27, § 770 of the Code from submitting a victim  
27 impact statement to the court.

28                                 (iii)     The court may consider a victim impact statement in  
29 determining whether to waive jurisdiction under this section.

30           (d)     (1)     The court may not waive its jurisdiction unless it determines, from a  
31 preponderance of the evidence presented at the hearing, that the child is an unfit  
32 subject for juvenile rehabilitative measures.

33                         (2)     For purposes of determining whether to waive its jurisdiction, the  
34 court shall assume that the child committed the delinquent act alleged.

35           (e)     In making its determination, the court shall consider the following criteria  
36 individually and in relation to each other on the record:

- 1 (1) Age of the child;
- 2 (2) Mental and physical condition of the child;
- 3 (3) The child's amenability to treatment in any institution, facility, or  
4 program available to delinquents;
- 5 (4) The nature of the offense and the child's alleged participation in it;  
6 and
- 7 (5) The public safety.

8 (f) If the jurisdiction is waived, the court shall order the child held for trial  
9 under the regular procedures of the court which would have jurisdiction over the  
10 offense if committed by an adult. The petition alleging delinquency shall be  
11 considered a charging document for purposes of detaining the child pending a bail  
12 hearing.

13 (g) An order waiving jurisdiction is interlocutory.

14 (h) If the court has once waived its jurisdiction with respect to a child in  
15 accordance with this section, and that child is subsequently brought before the court  
16 on another charge of delinquency, the court may waive its jurisdiction in the  
17 subsequent proceeding after summary review.

18 **Article - Education**

19 7-303.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) "Law enforcement agency" means the law enforcement agencies  
22 listed in Article 27, § 727(b) of the Code.

23 (3) "Local school system" means the schools and school programs under  
24 the supervision of the local superintendent.

25 (4) "Local superintendent" means the county superintendent, for the  
26 county in which a child is enrolled, or a designee of the superintendent, who is an  
27 administrator.

28 (5) "Reportable offense" means:

29 (i) A crime of violence, as defined in Article 27, § 643B of the Code;

30 (ii) Any of the FOLLOWING offenses [enumerated in § 3-804(e)(4) of  
31 the Courts Article];

32 1. ABDUCTION;

33 2. KIDNAPPING;

- 1 3. SECOND DEGREE MURDER;
- 2 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
- 3 MANSLAUGHTER;
- 4 5. SECOND DEGREE RAPE;
- 5 6. ROBBERY WITH A DANGEROUS OR DEADLY WEAPON;
- 6 7. SECOND DEGREE SEXUAL OFFENSE IN VIOLATION OF
- 7 ARTICLE 27, § 464A(A)(1) OF THE CODE;
- 8 8. THIRD DEGREE SEXUAL OFFENSE IN VIOLATION OF
- 9 ARTICLE 27, § 464B(A)(1) OF THE CODE;
- 10 9. A CRIME IN VIOLATION OF ARTICLE 27, § 36B, § 373, § 374, §
- 11 445, § 446, OR § 481C OF THE CODE;
- 12 10. USING, WEARING, CARRYING, OR TRANSPORTING OF
- 13 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME IN VIOLATION
- 14 OF ARTICLE 27, § 281A OF THE CODE;
- 15 11. USE OF A FIREARM IN VIOLATION OF ARTICLE 27, § 291A
- 16 OF THE CODE;
- 17 12. CARJACKING OR ARMED CARJACKING IN VIOLATION OF
- 18 ARTICLE 27, § 348A OF THE CODE;
- 19 13. ASSAULT IN THE FIRST DEGREE IN VIOLATION OF
- 20 ARTICLE 27, § 12A-1 OF THE CODE;
- 21 14. ATTEMPTED MURDER IN THE SECOND DEGREE IN
- 22 VIOLATION OF ARTICLE 27, § 411A OF THE CODE;
- 23 15. ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN
- 24 THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE; OR
- 25 16. ATTEMPTED ROBBERY WITH A DANGEROUS OR DEADLY
- 26 WEAPON UNDER ARTICLE 27, § 488 OF THE CODE;
- 27 (iii) A violation of Article 27, § 36, § 36A, or § 36B of the Code;
- 28 (iv) A violation of Article 27, § 286, § 286A, § 286B, § 286C, or §
- 29 286D of the Code; or
- 30 (v) A violation of Article 27, § 139C, § 151A, or § 151C of the Code.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only

32 to cases filed on or after the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2000.