

HOUSE BILL 849

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HB 562/99 - JUD

2000 Regular Session
0lr1460
CF 0lr1459

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

Introduced and read first time: February 11, 2000

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 delinquent children
5 and children in need of supervision; stating the purposes and providing for the
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; specifying the format and contents of a
10 CINA petitions; requiring separate petitions for each child and separate files for
11 each case; repealing the authority of the Department of Juvenile Justice to file
12 CINA petition; requiring a local department of social services to file a CINA
13 petition under certain circumstances; altering the jurisdictions in which CINA
14 petitions may be filed; requiring the juvenile court to communicate with certain
15 other courts under certain circumstances; specifying the procedures for transfer
16 of CINA cases; authorizing the juvenile court to obtain information under the
17 Maryland Uniform Child Custody Jurisdiction Act under certain circumstances;
18 altering the reviewing authority for decisions not to file a CINA petition;
19 requiring the juvenile court to close CINA proceedings to the general public
20 under certain circumstances; altering the role of the Office of the Public
21 Defender and attorneys under contract with the Department of Human
22 Resources as to representation of children alleged or adjudicated CINAs and
23 their parents subject to a certain condition; altering the methods by which a
24 child may be taken into custody under the CINA statute; altering the duty of a
25 law enforcement officer to notify certain persons when a child is taken into
26 custody; clarifying the time frame within which certain shelter care hearings
27 are to be held; altering the agencies responsible for adoption of regulations
28 governing shelter care of alleged CINAs; prohibiting the court from ordering an
29 inpatient evaluation, except under certain circumstances; clarifying the
30 circumstances under which the court is authorized to order emergency medical
31 or psychiatric treatment for a child; specifying the factors a court is required to
32 apply when determining whether to withhold or withdraw life-sustaining
33 procedures; conforming terminology in certain provisions relating to shelter care
34 and commitment to provisions in the Health - General Article as to mental

1 disorders, mental retardation, and developmental disabilities; expanding the
2 required contents of certain regulations; specifying times for delivery of certain
3 evaluations, reports, and permanency plans for CINA proceedings; making
4 certain rules of evidence applicable to adjudication hearings; altering a certain
5 presumption regarding certain babies born addicted to or dependent on certain
6 controlled dangerous substances; clarifying the bases for determination
7 regarding reunification efforts; clarifying that a CINA finding is to be made at
8 the disposition hearing; authorizing a court to find that a child is a child in need
9 of assistance even if a noncustodial parent is willing and able to care for the
10 child; altering the permissible dispositions on a CINA petition; specifying the
11 contents of orders of removal; providing for the emergency removal from certain
12 placements of children found to be CINA; expanding a requirement for
13 on-the-record findings as to children in need of certain inpatient medical care;
14 authorizing the court to issue orders directing, restraining, or otherwise
15 controlling nonparties under certain circumstances; providing for the
16 enforcement of such orders; expanding the proceedings in which evidence taken
17 in CINA proceeding may be used; altering the permanency plan options;
18 requiring the court to order a local department of social services to file a petition
19 for termination of parental rights within a certain period of time under certain
20 circumstances; defining certain terms; altering certain definitions; expanding
21 access to court records pertaining to CINA proceedings; clarifying the scope of
22 the Court-Appointed Special Advocate programs; repealing a requirement for
23 local matching funds for such programs, subject to certain conditions; correcting
24 certain cross-references; making stylistic changes; providing for the
25 construction of this Act; providing for the effective date of certain provisions of
26 this Act; and generally relating to juvenile causes.

27 BY renumbering

28 Article - Courts and Judicial Proceedings
29 Section 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A. Mandamus";
30 3-816, 3-824, 3-829, 3-832, and 3-836, respectively
31 to be Section 3-8B-01 and 3-8B-02 and the subtitle "Subtitle 8B. Mandamus";
32 3-8A-16, 3-8A-23, 3-8A-28, 3-8A-31, and 3-8A-34, respectively
33 Annotated Code of Maryland
34 (1998 Replacement Volume and 1999 Supplement)

35 BY repealing

36 Article - Courts and Judicial Proceedings
37 Section 3-801.1, 3-803, 3-812.1, 3-813, 3-826.1, 3-833, 3-834.1, 3-837, and
38 3-837.1
39 Annotated Code of Maryland
40 (1998 Replacement Volume and 1999 Supplement)

41 BY adding to

42 Article - Courts and Judicial Proceedings
43 Section 3-801 through 3-830 to be under the amended subtitle "Subtitle 8.

- 1 Juvenile Causes - Children in Need of Assistance"; and 3-8A-04
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 1999 Supplement)
- 4 BY repealing and reenacting, with amendments,
5 Article - Courts and Judicial Proceedings
6 Section 3-813(c) and 3-830(c)
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 1999 Supplement)
9 (As enacted by Section 3 of this Act)
- 10 BY repealing and reenacting, with amendments,
11 Article - Courts and Judicial Proceedings
12 Section 3-801, 3-802, 3-804, 3-805, 3-806, 3-807, 3-808, 3-809, 3-810,
13 3-810.1, 3-811, 3-812, 3-814, 3-815, 3-817, 3-818, 3-819, 3-820, 3-821,
14 3-822, 3-823, 3-825, 3-826, 3-827, 3-828, 3-830, 3-831, 3-834, and
15 3-835 to be under the new subtitle "Subtitle 8A. Juvenile Causes -
16 Children Other Than CINAs and Adults"; 4-301(a), 5-805(a)(3) and
17 (5)(ii)2., and 12-403(a)
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 1999 Supplement)
- 20 BY repealing and reenacting, with amendments,
21 Article - Education
22 Section 7-303(a)(5)(ii) and 26-103(b)(1)
23 Annotated Code of Maryland
24 (1999 Replacement Volume)
- 25 BY repealing and reenacting, with amendments,
26 Article - Family Law
27 Section 5-322(a)(1)(ii) and (b)(1)(i) and (2)(i) and 5-525(d)(1)
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 1999 Supplement)
- 30 BY repealing and reenacting, with amendments,
31 Article - Health - General
32 Section 10-923(a)(4), (6), and (7)
33 Annotated Code of Maryland
34 (1994 Replacement Volume and 1999 Supplement)
- 35 BY repealing and reenacting, with amendments,
36 Article - Insurance
37 Section 19-515
38 Annotated Code of Maryland

1 (1997 Volume and 1999 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Natural Resources

4 Section 8-712.2(e)

5 Annotated Code of Maryland

6 (1990 Replacement Volume and 1999 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Transportation

9 Section 16-206(b)(1) and (c)(1) and (2) and 24-304(b)

10 Annotated Code of Maryland

11 (1996 Replacement Volume and 1999 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article 27 - Crimes and Punishments

14 Section 402(a), 594A(a), (b), and (c), 737(b), 743(e)(2), 747(a)(21), 747A(c)(1),

15 750A, 763(d), 767, 773(b) and (f), 781(e)(1) and (3), 805A(e)(2), and

16 855(a)(5)(ii) and (g)(3)

17 Annotated Code of Maryland

18 (1996 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article 83C - Juvenile Justice

21 Section 2-101(b), 2-112, 2-118(b), and 2-126

22 Annotated Code of Maryland

23 (1998 Replacement Volume and 1999 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

25 MARYLAND, That Section(s) 3-8A-01 and 3-8A-02 and the subtitle "Subtitle 8A.

26 Mandamus"; 3-816, 3-824, 3-829, 3-832, and 3-836, respectively, of Article - Courts

27 and Judicial Proceedings of the Annotated Code of Maryland be renumbered to be

28 Section(s) 3-8B-01 and 3-8B-02 and the subtitle "Subtitle 8B. Mandamus"; 3-8A-16,

29 3-8A-23, 3-8A-28, 3-8A-31, and 3-8A-34, respectively.

30 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-801.1,

31 3-803, 3-812.1, 3-813, 3-826.1, 3-833, 3-834.1, 3-837, and 3-837.1 of Article -

32 Courts and Judicial Proceedings of the Annotated Code of Maryland be repealed.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland

34 read as follows:

1 **Article - Courts and Judicial Proceedings**

2 Subtitle 8. Juvenile Causes - CHILDREN IN NEED OF ASSISTANCE.

3 3-801.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "ABUSE" MEANS:

7 (1) SEXUAL ABUSE OF A CHILD, WHETHER A PHYSICAL INJURY IS
8 SUSTAINED OR NOT; OR9 (2) PHYSICAL OR MENTAL INJURY OF A CHILD UNDER CIRCUMSTANCES
10 THAT INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR IS AT
11 SUBSTANTIAL RISK OF BEING HARMED BY:12 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
13 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
14 CHILD; OR

15 (II) A HOUSEHOLD OR FAMILY MEMBER.

16 COMMITTEE NOTE: This definition was added. It is consistent with the
17 definition in FL § 5-701 but has been restructured to clarify that the
18 phrase "under circumstances that indicate ... being harmed" applies to
19 injury by a parent or other custodian, and not merely household or family
20 members.21 In item (2)(i) of this subsection, the word "individual" was used instead of
22 "person", to make clear that corporations and other entities are not
23 encompassed.24 (C) "ADJUDICATION HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO
25 DETERMINE WHETHER THE ALLEGATIONS IN THE PETITION, OTHER THAN THE
26 ALLEGATION THAT THE CHILD REQUIRES COURT INTERVENTION, ARE TRUE.

27 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(b).

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

29 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(c).

30 The word "individual" was substituted for "person", to make clear that
31 corporations or other entities are not encompassed.

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

33 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(d).

1 The word "individual" was substituted for "person", to make clear that
2 corporations or other entities are not encompassed.

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

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

7 (2) THE CHILD'S PARENTS, GUARDIAN, OR CUSTODIAN ARE UNABLE OR
8 UNWILLING TO GIVE PROPER CARE AND ATTENTION TO THE CHILD AND THE CHILD'S
9 NEEDS.

10 COMMITTEE NOTE: This language was substituted for former CJ § 3-801(e)
11 and revised for clarity.

12 The exemption for nonmedical remedial care was deleted.

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

14 COMMITTEE NOTE: This definition was added to allow concise reference to a
15 child in need of assistance and coincides with the terminology used in
16 practice.

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

18 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(h).

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

22 (I) "COURT" MEANS:

23 (1) A CIRCUIT COURT FOR A COUNTY SITTING AS THE JUVENILE COURT;
24 OR

25 (2) IN MONTGOMERY COUNTY, THE DISTRICT COURT SITTING AS THE
26 JUVENILE COURT.

27 COMMITTEE NOTE: This definition was derived from former CJ § 3-801(i).

28 The former reference to "Baltimore City" was deleted as unnecessary in
29 light of Art. 1, § 14 of the Code, which defines "county" to include Baltimore
30 City.

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

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

4 COMMITTEE NOTE: The definition was derived from former CJ § 3-801(j) and
5 revised to be consistent with the definition of "custody".

6 (K) "CUSTODY" MEANS THE RIGHT AND OBLIGATION, UNLESS OTHERWISE
7 DETERMINED BY THE COURT, TO PROVIDE ORDINARY CARE FOR A CHILD AND
8 DETERMINE PLACEMENT.

9 COMMITTEE NOTE: This definition was added to reflect terms used in CINA
10 practice.

11 (L) "DEVELOPMENTAL DISABILITY" MEANS A SEVERE CHRONIC DISABILITY
12 OF AN INDIVIDUAL THAT:

13 (1) IS ATTRIBUTABLE TO A PHYSICAL OR MENTAL IMPAIRMENT, OTHER
14 THAN THE SOLE DIAGNOSIS OF MENTAL ILLNESS, OR TO A COMBINATION OF
15 MENTAL AND PHYSICAL IMPAIRMENTS;

16 (2) IS LIKELY TO CONTINUE INDEFINITELY;

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

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

22 COMMITTEE NOTE: This definition was added to reflect terms used in CINA
23 practice. The language was taken from the definition in HG § 7-101,
24 omitting the provision that the disability must manifest before the age of
25 22.

26 (M) "DISPOSITION HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO
27 DETERMINE:

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

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

31 COMMITTEE NOTE: This subsection is new language substituted for former
32 CJ § 3-801(n), as it related to CINA proceedings, to clarify what is to occur
33 at a CINA hearing.

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

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

3 (O) "GUARDIANSHIP" MEANS AN AWARD BY A COURT, INCLUDING A COURT
4 OTHER THAN A JUVENILE COURT, OF THE AUTHORITY TO MAKE DECISIONS AS TO
5 THE CHILD'S CARE, WELFARE, EDUCATION, PHYSICAL AND MENTAL HEALTH, AND
6 THE RIGHT TO PURSUE SUPPORT.

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

9 (P) "LOCAL DEPARTMENT" MEANS THE LOCAL DEPARTMENT OF SOCIAL
10 SERVICES FOR THE COUNTY IN WHICH THE COURT IS LOCATED.

11 COMMITTEE NOTE: The definition was derived from former CJ § 3-801(p).

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

14 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO
15 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF AN
16 INDIVIDUAL AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE
17 WELFARE OF THE INDIVIDUAL OR FOR THE SAFETY OF THE PERSON OR PROPERTY
18 OF ANOTHER.

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

20 COMMITTEE NOTE: This definition was added to coincide with the definition
21 in HG § 9-101.

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

25 COMMITTEE NOTE: This definition was added to coincide with the definition
26 in FL § 5-701 and reflects practice in this area of law.

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

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

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

35 COMMITTEE NOTE: This definition was added to coincide with the definition
36 in FL § 5-701 and reflects practice in this area of law.

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

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

5 COMMITTEE NOTE: This definition was added for clarity.

6 (U) (1) "PARTY" MEANS:

7 (I) A CHILD WHO IS THE SUBJECT OF A PETITION;

8 (II) THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN; AND

9 (III) THE PETITIONER.

10 (2) "PARTY" DOES NOT INCLUDE A FOSTER PARENT.

11 COMMITTEE NOTE: Paragraph (1) of this subsection was derived from the
12 portion of former CJ § 3-801(r) applicable to CINA proceedings.

13 Paragraph (2) of this subsection was added for clarity as a court does not
14 award custody to a foster parent.

15 The former reference to an adult charge with contributing to CINA or other
16 status is omitted in light of the revision of those provisions in proposed
17 Subtitle 8A.

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

20 (I) A PARENT OR OTHER INDIVIDUAL WHO HAS PERMANENT OR
21 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE
22 CHILD; OR

23 (II) A HOUSEHOLD OR FAMILY MEMBER.

24 (2) "SEXUAL ABUSE" INCLUDES:

25 (I) INCEST;

26 (II) RAPE;

27 (III) SEXUAL OFFENSE IN ANY DEGREE;

28 (IV) SODOMY; AND

29 (V) UNNATURAL OR PERVERTED SEXUAL PRACTICES.

30 COMMITTEE NOTE: This definition was added for clarity and is consistent
31 with the definition in FL § 5-701.

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

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

5 COMMITTEE NOTE: This definition was derived from the portion of former
6 CJ § 3-801(s) applicable to CINAs and was revised to reflect practice in
7 this area of law.

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

11 COMMITTEE NOTE: This definition was added for clarity.

12 (Y) "TPR PROCEEDING" MEANS A PROCEEDING TO TERMINATE PARENTAL
13 RIGHTS.

14 COMMITTEE NOTE: This definition was added to allow concise reference to
15 termination proceedings and coincides with the terminology used in
16 practice.

17 3-802.

18 (A) THE PURPOSES OF THIS SUBTITLE ARE:

19 (1) TO PROVIDE FOR THE CARE, PROTECTION, AND MENTAL AND
20 PHYSICAL DEVELOPMENT OF ANY CHILD COMING WITHIN THE PROVISIONS OF THIS
21 SUBTITLE;

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

25 (3) TO CONSERVE AND STRENGTHEN THE CHILD'S FAMILY TIES AND TO
26 SEPARATE A CHILD FROM THE CHILD'S PARENTS ONLY WHEN NECESSARY FOR THE
27 CHILD'S WELFARE;

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

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

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

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

3 (B) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY TO EFFECTUATE
4 THESE PURPOSES.

5 COMMITTEE NOTE: This section was derived from the portion of former CJ §
6 3-802 applicable to CINAs and was revised for clarity.

7 3-803.

8 (A) IN ADDITION TO THE JURISDICTION SPECIFIED IN SUBTITLE 8A OF THIS
9 TITLE, THE COURT HAS EXCLUSIVE ORIGINAL JURISDICTION OVER:

10 (1) PROCEEDINGS ARISING FROM A PETITION ALLEGING THAT A CHILD
11 IS A CINA;

12 (2) PROCEEDINGS ARISING UNDER THE INTERSTATE COMPACT ON THE
13 PLACEMENT OF CHILDREN;

14 (3) PROCEEDINGS TO TERMINATE PARENTAL RIGHTS AFTER A CINA
15 PROCEEDING;

16 (4) GUARDIANSHIP REVIEW PROCEEDINGS AFTER A TPR PROCEEDING;
17 AND

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

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

22 (C) (1) THE COURT HAS CONCURRENT JURISDICTION OVER PROCEEDINGS
23 AGAINST AN ADULT FOR A VIOLATION OF § 3-828 OF THIS SUBTITLE.

24 (2) (I) THE COURT MAY WAIVE ITS JURISDICTION UNDER THIS
25 SUBSECTION ON ITS OWN MOTION OR ON THE MOTION OF ANY PARTY TO THE
26 PROCEEDING, IF CHARGES AGAINST THE ADULT ARISING FROM THE SAME INCIDENT
27 ARE PENDING IN THE CRIMINAL COURT.

28 (II) ON MOTION BY THE STATE'S ATTORNEY OR THE ADULT
29 CHARGED UNDER § 3-828 OF THIS SUBTITLE, THE COURT SHALL WAIVE ITS
30 JURISDICTION AND THE ADULT SHALL BE TRIED IN THE CRIMINAL COURT
31 ACCORDING TO THE USUAL CRIMINAL PROCEDURE.

32 (3) THE AGE OF THE CHILD AT THE TIME A PETITION IS FILED UNDER §
33 3-828 OF THIS SUBTITLE CONTROLS THE DETERMINATION OF JURISDICTION UNDER
34 THIS SUBSECTION.

35 (D) DURING PENDENCY OF AN ACTION UNDER THIS SUBTITLE, A PARTY HAS A
36 CONTINUING DUTY TO ADVISE THE COURT AND ANY OTHER COURT CONSIDERING

1 CUSTODY, SUPPORT, VISITATION, OR PATERNITY OF A CHILD, OF THE PENDENCY OF
2 ANY OTHER ACTION CONCERNING THE CHILD, WHETHER THE ACTION IS IN THIS OR
3 ANOTHER STATE.

4 (E) (1) IF THE COURT AND ANOTHER COURT BOTH HAVE PENDING ACTIONS
5 INVOLVING AN ALLEGED CINA, THE COURT SHALL COMMUNICATE WITH THE OTHER
6 COURT EXPEDITIOUSLY TO DETERMINE THE MOST APPROPRIATE COURT TO TAKE
7 FURTHER ACTION WITH REGARD TO THE CHILD.

8 (2) THE COURT SHALL ADVISE THE PARTIES OF THE DECISION AND THE
9 BASIS FOR SUCH DECISION.

10 COMMITTEE NOTE: Subsection (a) of this section was derived from former
11 CJ § 3-804(a)(2) and expanded.

12 Subsection (c) of this section was derived from former CJ §§ 3-804(c) and
13 3-805(b). Subsections (b), (d), and (e) of this section are new.

14 3-804.

15 (A) THE COURT HAS JURISDICTION UNDER THIS SUBTITLE ONLY IF THE
16 ALLEGED CINA IS UNDER THE AGE OF 18 YEARS WHEN THE PETITION IS FILED.

17 (B) IF THE COURT OBTAINS JURISDICTION OVER A CHILD, THAT
18 JURISDICTION CONTINUES IN THAT CASE UNTIL THE CHILD REACHES THE AGE OF
19 21, UNLESS THE COURT TERMINATES THE CASE.

20 (C) AFTER THE COURT TERMINATES JURISDICTION, A CUSTODY ORDER
21 ISSUED BY THE COURT IN A CINA CASE:

22 (1) REMAINS IN EFFECT; AND

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

25 COMMITTEE NOTE: The Committee combined former CJ §§ 3-805(b) and
26 3-806(a) and (d).

27 3-805.

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

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

31 (2) THE ACT ON WHICH THE PETITION IS BASED ALLEGEDLY
32 OCCURRED.

33 (B) (1) WHENEVER A PETITION IS FILED OTHER THAN IN THE COUNTY
34 WHERE THE CHILD RESIDES, THE COURT, ON ITS OWN MOTION OR ON MOTION OF A

1 PARTY, MAY TRANSFER THE CASE AT ANY TIME TO ANY APPROPRIATE COUNTY,
2 INCLUDING A COUNTY WHERE:

3 (I) ANOTHER CASE INVOLVING CUSTODY, VISITATION, OR
4 SUPPORT OF THE CHILD IS PENDING;

5 (II) THE CHILD RESIDES;

6 (III) A PARENT OF THE CHILD RESIDES; OR

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

9 (2) (I) BEFORE THE COURT TRANSFERS A CASE TO ANOTHER COURT
10 IN THE STATE, THE COURT SHALL COMMUNICATE WITH THE JUVENILE JUDGE OF
11 THE OTHER COURT OR THE JUDGE'S DESIGNEE.

12 (II) THE COURT SHALL ADVISE THE PARTIES OF THE DECISION
13 MADE TO TRANSFER THE CASE AND THE BASIS FOR THE DECISION.

14 (3) BEFORE THE COURT TRANSFERS A CASE TO A COURT OUTSIDE THE
15 STATE, THE COURT SHALL COMMUNICATE WITH THE OTHER COURT IN ACCORDANCE
16 WITH THE MARYLAND UNIFORM CHILD CUSTODY JURISDICTION ACT.

17 (4) (I) WITHIN 15 DAYS AFTER THE COURT ORDERS A TRANSFER, THE
18 CLERK OF THE SENDING COURT SHALL FORWARD TO THE RECEIVING COURT EVERY
19 DOCUMENT ON FILE WITH THE SENDING COURT.

20 (II) IF A CASE IS TRANSFERRED TO ANOTHER COURT IN THIS
21 STATE, THE RECEIVING COURT SHALL TREAT THE CASE AS IF IT HAD BEEN FILED
22 WITH THAT COURT INITIALLY AND SHALL SET HEARING DATES AS CLOSE AS
23 PRACTICABLE TO THOSE SET FORTH IN ANY PENDING ORDERS ISSUED BY THE
24 SENDING COURT.

25 (C) IF INFORMATION ABOUT A CHILD IS ALLEGED TO BE AVAILABLE IN
26 ANOTHER JURISDICTION IN OR OUTSIDE OF THIS STATE, THE COURT, ON ITS OWN
27 MOTION OR ON MOTION OF A PARTY, MAY USE THE PROVISIONS OF THE MARYLAND
28 UNIFORM CHILD CUSTODY JURISDICTION ACT TO OBTAIN THAT INFORMATION.

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

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

34 Subsections (b) and (c) of this section were derived from former CJ §
35 3-809(a)(1) and (b) and have new language added to clarify the process of
36 transferring cases in- and out-of-state.

1 3-806.

2 (A) (1) IN EVERY COUNTY, ONE OR MORE JUDGES SHALL BE ASSIGNED
3 SPECIALLY TO HANDLE CASES ARISING UNDER THIS SUBTITLE AND SUBTITLE 8A OF
4 THIS TITLE. THE ASSIGNMENT SHALL BE MADE BY THE CIRCUIT ADMINISTRATIVE
5 JUDGE, SUBJECT TO THE APPROVAL OF THE CHIEF JUDGE OF THE COURT OF
6 APPEALS, EXCEPT THAT IN MONTGOMERY COUNTY, THE ASSIGNMENT SHALL BE
7 MADE BY THE CHIEF JUDGE OF THE DISTRICT COURT, SUBJECT TO THE APPROVAL
8 OF THE CHIEF JUDGE OF THE COURT OF APPEALS.

9 (2) THE JUDGES SO ASSIGNED ARE NOT SUBJECT TO AN AUTOMATIC
10 REGULAR ROTATION.

11 (B) TO THE EXTENT FEASIBLE, THE JUDGES ASSIGNED UNDER THIS SECTION
12 SHALL:

13 (1) DESIRE TO BE SO ASSIGNED;

14 (2) HAVE THE TEMPERAMENT NECESSARY TO DEAL PROPERLY WITH
15 THE CASES AND CHILDREN LIKELY TO COME BEFORE THE COURT; AND

16 (3) HAVE SPECIAL EXPERIENCE OR TRAINING IN JUVENILE CAUSES AND
17 THE PROBLEMS OF CHILDREN LIKELY TO COME BEFORE THE COURT.

18 COMMITTEE NOTE: This section was derived from former CJ § 3-803 and
19 was revised to require assignment of juvenile court judges in every county.

20 3-807.

21 (A) (1) THE JUDGES OF A CIRCUIT COURT MAY NOT APPOINT A MASTER FOR
22 JUVENILE CAUSES ARISING UNDER THIS SUBTITLE AND SUBTITLE 8A OF THIS TITLE
23 UNLESS THE APPOINTMENT AND THE APPOINTEE ARE APPROVED BY THE CHIEF
24 JUDGE OF THE COURT OF APPEALS.

25 (2) THE STANDARDS EXPRESSED IN § 3-806(B) OF THIS SUBTITLE, WITH
26 RESPECT TO THE ASSIGNMENT OF JUDGES, ARE APPLICABLE TO THE APPOINTMENT
27 OF MASTERS.

28 (3) A MASTER, AT THE TIME OF APPOINTMENT AND AT ALL TIMES WHILE
29 SERVING AS A MASTER, SHALL BE A MEMBER IN GOOD STANDING OF THE MARYLAND
30 BAR.

31 (4) (I) IN PRINCE GEORGE'S COUNTY, THE JUDGES OF THE CIRCUIT
32 COURT MAY NOT APPOINT OR CONTINUE THE APPOINTMENT OF MASTERS FOR
33 JUVENILE CAUSES, EXCEPT FOR THE PURPOSE OF CONDUCTING:

34 1. PROBABLE CAUSE HEARINGS, DETENTION HEARINGS,
35 ARRAIGNMENTS, ACCEPTANCES OF ADMISSIONS, AND RESTITUTION HEARINGS IN
36 DELINQUENCY CASES UNDER SUBTITLE 8A OF THIS TITLE; AND

1 (3) DETENTION OR SHELTER CARE MAY BE ORDERED BY A MASTER
2 PENDING COURT REVIEW OF THE MASTER'S FINDINGS, CONCLUSIONS, AND
3 RECOMMENDATIONS.

4 (E) IF THE COURT, ON ITS OWN MOTION AND IN THE ABSENCE OF TIMELY
5 AND PROPER EXCEPTIONS, DECIDES NOT TO ADOPT THE MASTER'S FINDINGS,
6 CONCLUSIONS, AND RECOMMENDATIONS, OR ANY OF THEM, THE COURT SHALL
7 CONDUCT A DE NOVO HEARING, UNLESS ALL PARTIES AND THE COURT AGREE TO A
8 HEARING ON THE RECORD.

9 COMMITTEE NOTE: This section was derived from former CJ § 3-813.

10 3-808.

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

12 (B) WHILE SITTING AS THE JUVENILE COURT, THE DISTRICT COURT IN
13 MONTGOMERY COUNTY SHALL FOLLOW THE APPLICABLE RULES OF A CIRCUIT
14 COURT SITTING AS THE JUVENILE COURT.

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

19 COMMITTEE NOTE: Subsection (a) of this section was derived from former
20 CJ 3-812(f).

21 Subsection (b) of this section was derived from former CJ § 3-801(i) and
22 restated as a substantive provision.

23 Subsection (c) of this section was derived from former CJ § 3-832.

24 3-809.

25 (A) ON RECEIPT OF A REPORT OF ABUSE OR NEGLECT, THE LOCAL
26 DEPARTMENT SHALL FILE A PETITION UNDER THIS SUBTITLE IF IT CONCLUDES
27 THAT THE COURT HAS JURISDICTION OVER THE MATTER AND THAT THE FILING OF A
28 PETITION IS IN THE BEST INTERESTS OF THE CHILD.

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

32 (1) A CHILD OVER THE AGE OF 10 WHO WOULD HAVE BEEN THE
33 SUBJECT OF THE PETITION, IF APPROPRIATE;

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

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

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

4 (D) WITHIN 15 DAYS AFTER A REQUEST FOR REVIEW IS RECEIVED, THE
5 SECRETARY OF HUMAN RESOURCES OR THE SECRETARY'S DESIGNEE IN
6 CONSULTATION WITH THE DIRECTOR OF THE LOCAL DEPARTMENT, SHALL REVIEW
7 THE REPORT AND MAY DIRECT THE LOCAL DEPARTMENT TO FILE A PETITION
8 WITHIN 5 DAYS.

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

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

17 3-810.

18 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE MARYLAND
19 RULES GOVERN THE FORMAT OF A PETITION AND OF OTHER PLEADINGS AND THE
20 PROCEDURES TO BE FOLLOWED BY THE COURT AND PARTIES UNDER THIS SUBTITLE.

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

25 (2) THE COURT SHALL EXCLUDE THE GENERAL PUBLIC FROM A
26 HEARING WHERE THE PROCEEDINGS INVOLVE DISCUSSION OF CONFIDENTIAL
27 INFORMATION FROM THE CHILD ABUSE AND NEGLECT REPORT AND RECORD, OR
28 ANY INFORMATION OBTAINED FROM THE CHILD WELFARE AGENCY CONCERNING A
29 CHILD OR FAMILY WHO IS RECEIVING TITLE IV-B CHILD WELFARE SERVICES OR
30 TITLE IV-E FOSTER CARE OR ADOPTION ASSISTANCE.

31 (C) THE CLERK OF THE COURT SHALL MAKE A SEPARATE FILE FOR EACH
32 CASE.

33 COMMITTEE NOTE: Subsections (a) and (b)(1) of this section were derived
34 from former CJ § 3-812(c) and (e)(2).

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

1 Subsection (c) of this section was added to allow more consistent and
2 reliable statistical records.

3 3-811.

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

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

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

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

13 3-812.

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

16 (2) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
17 643B OF THE CODE.

18 (3) "TORTURE" MEANS TO CAUSE INTENSE PAIN TO BODY OR MIND FOR
19 PURPOSES OF PUNISHMENT OR EXTRACTION OF INFORMATION OR FOR SADISTIC
20 PURPOSES.

21 (B) IN A PETITION UNDER THIS SUBTITLE, A LOCAL DEPARTMENT MAY ASK
22 THE COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY A CHILD WITH THE
23 CHILD'S NATURAL PARENT OR GUARDIAN ARE NOT REQUIRED IF THE LOCAL
24 DEPARTMENT CONCLUDES THAT A NATURAL PARENT OR GUARDIAN HAS:

25 (1) SUBJECTED THE CHILD TO:

26 (I) CHRONIC ABUSE;

27 (II) CHRONIC AND LIFE-THREATENING NEGLECT;

28 (III) SEXUAL ABUSE; OR

29 (IV) TORTURE;

30 (2) BEEN CONVICTED:

31 (I) IN THIS STATE OF A CRIME OF VIOLENCE AGAINST THE CHILD,
32 THE OTHER NATURAL PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL
33 PARENT, OR ANY INDIVIDUAL WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL
34 PARENT;

1 (II) IN ANY STATE OR IN ANY COURT OF THE UNITED STATES OF A
2 CRIME THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED IN THIS STATE,
3 AGAINST THE CHILD, THE OTHER NATURAL PARENT OF THE CHILD, ANOTHER CHILD
4 OF THE NATURAL PARENT, OR ANY INDIVIDUAL WHO RESIDES IN THE HOUSEHOLD
5 OF THE NATURAL PARENT; OR

6 (III) OF AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
7 COMMIT A CRIME DESCRIBED IN SUBITEM (I) OR (II) OF THIS ITEM; OR

8 (3) INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING OF A CHILD.

9 (C) IF THE LOCAL DEPARTMENT DETERMINES AFTER THE INITIAL PETITION
10 IS FILED THAT ANY OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (B) OF THIS
11 SECTION EXISTS, THE LOCAL DEPARTMENT MAY IMMEDIATELY REQUEST THE
12 COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE
13 CHILD'S PARENT OR GUARDIAN ARE NOT REQUIRED.

14 (D) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ANY
15 OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (B) OF THIS SECTION EXISTS,
16 THE COURT MAY WAIVE THE REQUIREMENT THAT REASONABLE EFFORTS BE MADE
17 TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR GUARDIAN.

18 (E) IF THE COURT FINDS THAT REASONABLE EFFORTS ARE NOT REQUIRED,
19 THE LOCAL DEPARTMENT SHALL:

20 (1) REQUEST THAT A PERMANENCY PLANNING HEARING BE HELD IN
21 ACCORDANCE WITH § 3-823 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE COURT
22 MAKES THE FINDING; AND

23 (2) MAKE REASONABLE EFFORTS TO PLACE THE CHILD IN A TIMELY
24 MANNER IN ACCORDANCE WITH THE PERMANENCY PLAN AND COMPLETE THE
25 STEPS NECESSARY TO FINALIZE THE PERMANENT PLACEMENT OF THE CHILD.

26 COMMITTEE NOTE: This section was derived from former CJ § 3-812.1. New
27 language and definitions were added to clarify Chapter 539 (HB 1093),
28 Acts of 1998.

29 3-813.

30 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A
31 PARTY IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY STAGE OF ANY
32 PROCEEDING UNDER THIS SUBTITLE.

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

36 (1) INDIGENT; OR

37 (2) OTHERWISE NOT REPRESENTED AND:

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

2 (II) INCOMPETENT BY REASON OF MENTAL DISABILITY.

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

5 (1) THE PARTY IS THE CUSTODIAL PARENT OR LEGAL GUARDIAN OF THE
6 ALLEGED CINA;

7 (2) THE PROCEEDING IS:

8 (I) UNDER § 3-815, § 3-817, OR § 3-819 OF THIS SUBTITLE; OR

9 (II) UNDER MARYLAND RULE 11-115 OR 11-116 IN WHICH:

10 1. THE STATE HAS MOVED TO REMOVE THE CHILD FROM A
11 PARENT'S OR GUARDIAN'S CUSTODY OR THE PARENT OR GUARDIAN HAS MOVED TO
12 REGAIN CUSTODY; AND

13 2. DUE TO A COMPLEX FACTUAL OR LEGAL ISSUE,
14 ASSISTANCE OF COUNSEL IS NECESSARY TO ENSURE AGAINST A RISK OF
15 ERRONEOUS DEPRIVATION OF CUSTODY;

16 (3) THE PARTY APPLIES TO THE OFFICE OF THE PUBLIC DEFENDER
17 REQUESTING LEGAL REPRESENTATION BY THE PUBLIC DEFENDER IN THE
18 PROCEEDING; AND

19 (4) THE PARTY IS FINANCIALLY ELIGIBLE FOR THE SERVICES OF THE
20 PUBLIC DEFENDER.

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

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

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

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

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

1 (F) THE COURT MAY ASSESS REASONABLE COMPENSATION FOR THE
2 SERVICES OF AN ATTORNEY APPOINTED TO REPRESENT A CHILD IN AN ACTION
3 UNDER THIS SUBTITLE AGAINST ANY PARTY.

4 COMMITTEE NOTE: This section was derived from former CJ §§ 3-821 and
5 3-834(a)(2) and (c).

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

10 Subsection (c), as set out here, reflects current law as set forth in former
11 CJ, § 3-821(c). The Committee proposes, however, expansion of the role of
12 the Office of the Public Defender in representation of parents, contingent
13 on allocation of necessary funding. The Committee believes that all
14 indigent parents have a right to representation in CINA proceedings at
15 State expense. See Section 4 of this Act. This revision also eliminates the
16 ability of the OPD to represent a child in a CINA proceeding.

17 3-814.

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

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

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

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

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

28 (1) IMMEDIATELY NOTIFY THE CHILD'S PARENT, GUARDIAN, OR
29 CUSTODIAN;

30 (2) IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT; AND

31 (3) KEEP CUSTODY ONLY UNTIL THE LOCAL DEPARTMENT EITHER
32 TAKES CUSTODY UNDER § 3-815 OF THIS SUBTITLE OR AUTHORIZES RELEASE OF THE
33 CHILD UNLESS THE OFFICER DETERMINES THAT IT IS SAFE TO RETURN THE CHILD
34 TO THE CHILD'S PARENT, CUSTODIAN, OR GUARDIAN.

35 COMMITTEE NOTE: This section was derived from former CJ § 3-814(a) and
36 (b) and was revised with the word "serious" added to reiterate the high
37 standard that an officer should use before removing a child from the home.

1 An officer is the only person authorized under this subtitle to remove a
2 child, other than the local department.

3 3-815.

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

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

9 (1) PLACEMENT IS REQUIRED TO PROTECT THE CHILD FROM SERIOUS
10 IMMEDIATE DANGER;

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

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

15 2. BECAUSE OF AN ALLEGED EMERGENCY SITUATION,
16 REMOVAL FROM THE HOME IS REASONABLE UNDER THE CIRCUMSTANCES TO
17 PROVIDE FOR THE SAFETY OF THE CHILD; OR

18 (II) 1. REASONABLE, BUT UNSUCCESSFUL, EFFORTS HAVE BEEN
19 MADE TO PREVENT OR ELIMINATE THE NEED FOR REMOVAL FROM THE CHILD'S
20 HOME; AND

21 2. AS APPROPRIATE, REASONABLE EFFORTS ARE BEING
22 MADE TO RETURN THE CHILD TO THE CHILD'S HOME.

23 (C) (1) WHENEVER A CHILD IS NOT RETURNED TO THE CHILD'S PARENT,
24 GUARDIAN, OR CUSTODIAN, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FILE A
25 PETITION TO AUTHORIZE CONTINUED SHELTER CARE.

26 (2) (I) THE COURT SHALL HOLD A SHELTER CARE HEARING ON THE
27 PETITION BEFORE DISPOSITION TO DETERMINE WHETHER THE TEMPORARY
28 PLACEMENT OF THE CHILD OUTSIDE OF THE HOME IS WARRANTED.

29 (II) UNLESS EXTENDED ON GOOD CAUSE SHOWN, A SHELTER CARE
30 HEARING SHALL BE HELD NOT LATER THAN THE NEXT DAY ON WHICH THE CIRCUIT
31 COURT SITS OR, IN MONTGOMERY COUNTY, THE NEXT DAY ON WHICH THE DISTRICT
32 COURT SITS.

33 (3) IF THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN CAN BE
34 LOCATED, REASONABLE NOTICE, ORAL OR WRITTEN, STATING THE TIME, PLACE, AND
35 PURPOSE OF THE SHELTER CARE HEARING SHALL BE GIVEN.

1 (4) A COURT MAY NOT ORDER SHELTER CARE FOR MORE THAN 30 DAYS
2 EXCEPT THAT SHELTER CARE MAY BE EXTENDED FOR UP TO AN ADDITIONAL 30
3 DAYS IF THE COURT FINDS AFTER A HEARING HELD AS PART OF AN ADJUDICATION
4 THAT CONTINUED SHELTER CARE IS NEEDED TO PROVIDE FOR THE SAFETY OF THE
5 CHILD.

6 (D) A COURT MAY CONTINUE SHELTER CARE BEYOND EMERGENCY SHELTER
7 CARE ONLY IF THE COURT FINDS THAT:

8 (1) RETURN OF THE CHILD TO THE CHILD'S HOME IS CONTRARY TO THE
9 SAFETY AND WELFARE OF THE CHILD; AND

10 (2) (I) REMOVAL OF THE CHILD FROM THE CHILD'S HOME IS
11 NECESSARY DUE TO AN ALLEGED EMERGENCY SITUATION AND IN ORDER TO
12 PROVIDE FOR THE SAFETY OF THE CHILD; OR

13 (II) REASONABLE BUT UNSUCCESSFUL EFFORTS WERE MADE TO
14 PREVENT OR ELIMINATE THE NEED FOR REMOVAL OF THE CHILD FROM THE HOME.

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

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

21 (3) THE COURT SHALL MAKE A WRITTEN DETERMINATION AS TO
22 WHETHER REASONABLE EFFORTS ARE BEING MADE TO MAKE IT POSSIBLE TO
23 RETURN THE CHILD TO THE CHILD'S HOME OR WHETHER THE ABSENCE OF SUCH
24 EFFORTS IS REASONABLE.

25 (F) (1) AN ALLEGED CINA MAY NOT BE PLACED IN:

26 (I) DETENTION, AS DEFINED IN § 3-8A-01 OF THIS TITLE; OR

27 (II) A MENTAL HEALTH FACILITY, UNLESS COMMITTED IN
28 ACCORDANCE WITH § 10-616 OF THE HEALTH - GENERAL ARTICLE.

29 (2) (I) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE
30 BECAUSE OF A MENTAL DISORDER OR A DEVELOPMENTAL DISABILITY, THE CHILD
31 MAY BE PLACED IN A SHELTER CARE FACILITY MAINTAINED OR LICENSED BY THE
32 DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR, IF NO SUCH FACILITY IS
33 AVAILABLE, IN A PRIVATE HOME OR SHELTER CARE FACILITY APPROVED BY THE
34 COURT.

35 (II) IF THE CHILD IS ALLEGED TO BE IN NEED OF ASSISTANCE FOR
36 ANY OTHER REASON, THE CHILD MAY BE PLACED IN A SHELTER CARE FACILITY
37 MAINTAINED OR APPROVED BY THE SOCIAL SERVICES ADMINISTRATION OR IN A
38 PRIVATE HOME OR SHELTER CARE FACILITY APPROVED BY THE COURT.

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

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

- 10 (I) HEALTH CARE SERVICES;
- 11 (II) MENTAL HEALTH CARE SERVICES;
- 12 (III) COUNSELING SERVICES;
- 13 (IV) EDUCATION SERVICES;
- 14 (V) SOCIAL WORK SERVICES;
- 15 (VI) DRUG AND ALCOHOL ABUSE ASSESSMENT OR TREATMENT
16 SERVICES; AND
- 17 (VII) VISITATION WITH SIBLINGS AND BIOLOGICAL FAMILY.

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

- 20 (I) WITHIN 45 DAYS OF PLACEMENT OF A CHILD IN A SHELTER
21 CARE FACILITY, TO DEVELOP A PLAN TO ASSESS THE CHILD'S TREATMENT NEEDS;
22 AND
- 23 (II) TO SUBMIT THE PLAN TO ALL PARTIES TO THE PETITION AND
24 THEIR COUNSEL.

25 COMMITTEE NOTE: This section was derived from former CJ § 3-815(a)
26 through (d)(5), (f), and (h).

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

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

1 3-816.

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

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

10 (2) (I) THE COURT MAY NOT ORDER AN INPATIENT EVALUATION
11 UNLESS, AFTER HEARING, THE COURT FINDS THAT AN INPATIENT EVALUATION IS
12 NECESSARY.

13 (II) PLACEMENT IN AN INPATIENT FACILITY MAY NOT EXCEED 20
14 DAYS UNLESS THE COURT FINDS GOOD CAUSE.

15 (C) (1) THE REPORT OF A STUDY UNDER THIS SECTION IS ADMISSIBLE AS
16 EVIDENCE AT A DISPOSITION HEARING BUT NOT AT AN ADJUDICATION HEARING.

17 (2) THE ATTORNEY FOR EACH PARTY HAS THE RIGHT TO RECEIVE THE
18 REPORT AT LEAST 5 DAYS BEFORE ITS PRESENTATION TO THE COURT, TO
19 CHALLENGE OR IMPEACH ITS FINDINGS AND TO PRESENT APPROPRIATE EVIDENCE
20 WITH RESPECT TO IT.

21 (3) THE TIME REQUIREMENT SPECIFIED IN PARAGRAPH (2) OF THIS
22 SUBSECTION DOES NOT APPLY TO AN EMERGENCY DISPOSITIONAL REVIEW
23 HEARING HELD IN ACCORDANCE WITH § 3-820 OF THIS SUBTITLE.

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

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

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

32 3-817.

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

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

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

3 COMMITTEE NOTE:

4 Subsections (a) and (c) of this section were derived from former CJ § 3-819.

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

6 3-818.

7 WITHIN 1 YEAR AFTER A CHILD'S BIRTH, THERE IS A REBUTTABLE
8 PRESUMPTION THAT A CHILD IS NOT RECEIVING PROPER CARE AND ATTENTION
9 FROM THE MOTHER FOR PURPOSES OF § 3-801(F)(2) OF THIS SUBTITLE IF THE CHILD:

10 (1) WAS BORN ADDICTED TO OR DEPENDENT ON COCAINE, HEROIN, OR A
11 DERIVATIVE OF COCAINE OR HEROIN; OR

12 (2) WAS BORN WITH A SIGNIFICANT PRESENCE OF COCAINE, HEROIN,
13 OR A DERIVATIVE OF COCAINE OR HEROIN IN THE CHILD'S BLOOD AS EVIDENCED BY
14 TOXICOLOGY OR OTHER APPROPRIATE TESTS.

15 COMMITTEE NOTE:

16 This section was derived from former CJ § 3-801.1 and revised to make the
17 presumption rebuttable and to limit it to children within a year of their
18 birth.

19 3-819.

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

23 (2) THE DISPOSITION HEARING SHALL BE HELD ON THE SAME DAY AS
24 THE ADJUDICATION HEARING UNLESS ON ITS OWN MOTION OR MOTION OF A PARTY,
25 THE COURT FINDS THAT THERE IS GOOD CAUSE TO DELAY THE DISPOSITION
26 HEARING TO A LATER DAY.

27 (3) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD
28 NO LATER THAN 30 DAYS AFTER THE CONCLUSION OF THE ADJUDICATION HEARING
29 UNLESS GOOD CAUSE IS SHOWN.

30 (B) IN MAKING A DISPOSITION ON A PETITION UNDER THIS SUBTITLE, THE
31 COURT SHALL:

32 (1) FIND THAT THE CHILD IS NOT IN NEED OF ASSISTANCE AND DISMISS
33 THE CASE; OR

34 (2) FIND THAT THE CHILD IS IN NEED OF ASSISTANCE AND:

1 (I) NOT CHANGE THE CHILD'S CUSTODY STATUS; OR

2 (II) COMMIT THE CHILD TO THE CUSTODY OF:

3 1. A PARENT, RELATIVE, OR OTHER INDIVIDUAL ON TERMS
4 THE COURT CONSIDERS APPROPRIATE; OR

5 2. A LOCAL DEPARTMENT, THE DEPARTMENT OF HEALTH
6 AND MENTAL HYGIENE, OR BOTH, ON TERMS THAT THE COURT CONSIDERS
7 APPROPRIATE, INCLUDING DESIGNATION OF THE TYPE OF FACILITY WHERE THE
8 CHILD IS TO BE PLACED.

9 (C) IN ADDITION TO ANY ACTION UNDER SUBSECTION (B) OF THIS SECTION,
10 THE COURT MAY:

11 (1) PLACE A CHILD UNDER THE PROTECTIVE SUPERVISION OF THE
12 LOCAL DEPARTMENT ON TERMS THE COURT CONSIDERS APPROPRIATE;

13 (2) GRANT LIMITED GUARDIANSHIP TO THE DEPARTMENT OR AN
14 INDIVIDUAL OR BOTH FOR SPECIFIC PURPOSES INCLUDING MEDICAL AND
15 EDUCATIONAL PURPOSES OR FOR OTHER APPROPRIATE SERVICES; OR

16 (3) ORDER THE CHILD AND THE CHILD'S PARENT, GUARDIAN, OR
17 CUSTODIAN TO PARTICIPATE IN REHABILITATIVE SERVICES THAT ARE IN THE BEST
18 INTEREST OF THE CHILD AND FAMILY.

19 (D) IF THE ALLEGATIONS IN THE PETITION ARE SUSTAINED AGAINST A
20 PARENT WHO IS THE LEGAL OR PHYSICAL CUSTODIAN OF THE CHILD, THE COURT
21 MAY FIND THAT THE CHILD IS A CINA EVEN IF THERE IS ANOTHER PARENT WHO IS
22 OTHERWISE WILLING AND ABLE TO CARE FOR THE CHILD.

23 (E) IF THE DISPOSITION REMOVES A CHILD FROM THE CHILD'S HOME, THE
24 ORDER SHALL:

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

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

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

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

1 (F) A GUARDIAN APPOINTED UNDER THIS SECTION HAS NO CONTROL OVER
2 THE PROPERTY OF THE CHILD UNLESS THE COURT EXPRESSLY GRANTS THAT
3 AUTHORITY.

4 (G) THE COURT MAY NOT COMMIT A CHILD FOR INPATIENT CARE AND
5 TREATMENT IN A PSYCHIATRIC FACILITY UNLESS THE COURT FINDS ON THE
6 RECORD BASED ON CLEAR AND CONVINCING EVIDENCE THAT:

7 (1) THE CHILD HAS A MENTAL DISORDER;

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

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

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

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

18 (1) THE CHILD IS DEVELOPMENTALLY DISABLED;

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

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

24 (I) (1) (I) EACH COMMITMENT ORDER ISSUED UNDER SUBSECTION (G)
25 OR (H) OF THIS SECTION SHALL REQUIRE THE CUSTODIAN TO FILE PROGRESS
26 REPORTS WITH THE COURT AT INTERVALS NO GREATER THAN EVERY 6 MONTHS
27 DURING THE LIFE OF THE ORDER.

28 (II) THE CUSTODIAN SHALL PROVIDE EACH PARTY OR ATTORNEY
29 OF RECORD WITH A COPY OF EACH REPORT WHICH SHALL BE CONSIDERED AT THE
30 NEXT SCHEDULED HEARING.

31 (III) AFTER THE FIRST 6 MONTHS OF THE COMMITMENT AND AT
32 6-MONTH INTERVALS THEREAFTER, ON THE REQUEST OF ANY PARTY, THE
33 CUSTODIAN, OR THE FACILITY, THE COURT SHALL HOLD A HEARING TO DETERMINE
34 WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (G) OR (H) OF THIS SECTION
35 CONTINUE TO BE MET.

36 (2) (I) IF AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER
37 § 10-706 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD NO

1 LONGER MEETS THE STANDARDS SPECIFIED IN SUBSECTION (G) OF THIS SECTION,
2 THE COURT SHALL GRANT A HEARING TO REVIEW THE COMMITMENT ORDER.

3 (II) THE COURT MAY GRANT A HEARING AT ANY OTHER TIME TO
4 DETERMINE WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (G) OF THIS
5 SECTION CONTINUE TO BE MET.

6 (3) (I) IF AN INDIVIDUALIZED PLAN OF HABILITATION DEVELOPED
7 UNDER § 7-1006 OF THE HEALTH - GENERAL ARTICLE RECOMMENDS THAT A CHILD
8 NO LONGER MEETS THE STANDARDS SPECIFIED IN SUBSECTION (H) OF THIS
9 SECTION, THE COURT SHALL GRANT A HEARING TO REVIEW THE COMMITMENT
10 ORDER.

11 (II) THE COURT MAY GRANT A HEARING AT ANY OTHER TIME TO
12 DETERMINE WHETHER THE STANDARDS SPECIFIED IN SUBSECTION (H) OF THIS
13 SECTION CONTINUE TO BE MET.

14 (J) AN ORDER VESTING LEGAL CUSTODY OF A CHILD IN AN INDIVIDUAL,
15 AGENCY, OR INSTITUTION IS EFFECTIVE FOR AN INDETERMINATE PERIOD OF TIME,
16 BUT IS NOT EFFECTIVE AFTER THE CHILD REACHES THE AGE OF 21.

17 (K) AFTER GIVING THE PARENT A REASONABLE OPPORTUNITY TO BE HEARD,
18 AND DETERMINING THE INCOME OF THE PARENT, THE COURT MAY ORDER EITHER
19 PARENT OR BOTH PARENTS TO PAY A SUM IN THE AMOUNT THE COURT DIRECTS TO
20 COVER WHOLLY OR PARTLY THE SUPPORT OF THE CHILD UNDER THIS SUBTITLE.

21 COMMITTEE NOTE:

22 Subsections (a)(1) and (2), (b), and (e) through (k) of this section were
23 derived from former CJ §§ 3-820(a)(1) and (3), (c)(1), (e), (h), and (i),
24 3-825(a), and 3-830.

25 Subsections (a)(3), (c), and (d) were added.

26 Subsection (e) of this section is not intended to prohibit any
27 co-commitments between agencies.

28 The Committee is aware that there is a school of thought that the
29 determination of the CINA finding should be made at the adjudication
30 hearing.

31 Subsection (g) of this section was revised to encompass commitments to all
32 psychiatric facilities.

33 3-820.

34 (A) AFTER DISPOSITION, WHEN THE COURT HAS ORDERED A SPECIFIC
35 PLACEMENT OF THE CHILD, A LOCAL DEPARTMENT MAY REMOVE A CHILD FROM
36 THAT PLACEMENT PRIOR TO A HEARING ONLY IF:

1 (1) REMOVAL IS REQUIRED TO PROTECT THE CHILD FROM SERIOUS
2 IMMEDIATE DANGER;

3 (2) THE CHILD'S CONTINUED PLACEMENT IN THE COURT-ORDERED
4 PLACEMENT IS CONTRARY TO THE WELFARE OF THE CHILD; OR

5 (3) THE AGENCY OR INDIVIDUAL HAS REQUESTED THE IMMEDIATE
6 REMOVAL OF THE CHILD.

7 (B) (1) BEFORE REMOVAL OR, IF NOT POSSIBLE, IMMEDIATELY AFTER
8 REMOVAL, THE LOCAL DEPARTMENT SHALL NOTIFY ALL PARTIES, COUNSEL, AND
9 THE COURT OF THE REMOVAL OF THE CHILD.

10 (2) THE LOCAL DEPARTMENT SHALL PROVIDE THE ADDRESS AND
11 PHONE NUMBER OF THE CHILD'S NEW PLACEMENT TO THE CHILD'S COUNSEL.

12 (C) (1) IF THE CHILD IS NOT RETURNED TO THE COURT-ORDERED
13 PLACEMENT, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FILE A MOTION TO
14 AUTHORIZE THE REMOVAL OF THE CHILD AND THE CHILD'S NEW PLACEMENT.

15 (2) THE MOTION SHALL SET FORTH THE FACTS ON WHICH THE
16 DEPARTMENT RELIED IN REMOVING THE CHILD AND THE IDENTITY OF ANY
17 WITNESSES.

18 (D) (1) THE COURT SHALL HOLD AN EMERGENCY REVIEW HEARING ON THE
19 MOTION NOT LATER THAN THE NEXT DAY ON WHICH THE CIRCUIT COURT SITS OR, IN
20 MONTGOMERY COUNTY, THE NEXT DAY ON WHICH THE DISTRICT COURT SITS.

21 (2) ALL PARTIES SHALL BE GIVEN REASONABLE NOTICE OF THE
22 HEARING.

23 (E) AT THE EMERGENCY REVIEW HEARING, THE COURT'S DECISION TO
24 REJECT OR TO RATIFY THE LOCAL DEPARTMENT'S REMOVAL OF THE CHILD SHALL
25 BE BASED UPON SUCH EVIDENCE AS WOULD BE SUFFICIENT UNDER § 3-815(D) OF
26 THIS SUBTITLE TO ORDER SHELTER CARE.

27 (F) (1) UNLESS ALL PARTIES AGREE TO THE COURT'S ORDER AT THE
28 EMERGENCY REVIEW HEARING, THE COURT, AT THAT HEARING, SHALL SCHEDULE A
29 REGULAR REVIEW HEARING WITHIN 30 DAYS OF THE EMERGENCY REVIEW HEARING
30 FOR A FULL HEARING ON THE MERITS OF THE LOCAL DEPARTMENT'S ACTION.

31 (2) THE HEARING MAY BE POSTPONED BY AGREEMENT OF THE PARTIES
32 OR FOR GOOD CAUSE SHOWN.

33 COMMITTEE NOTE: This section was added to establish procedures for the
34 removal of children who are already in the foster care system throughout
35 the State.

1 3-821.

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

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

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

10 (3) WILL ASSIST IN THE REHABILITATION OF OR IS NECESSARY FOR THE
11 WELFARE OF THE CHILD.

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

14 (1) NOTICE OF THE PROPOSED ORDER CONTROLLING THE PERSON'S
15 CONDUCT; AND

16 (2) THE OPPORTUNITY TO CONTEST THE ENTRY OF THE PROPOSED
17 ORDER.

18 (C) AN ORDER ISSUED UNDER THIS SECTION IS ENFORCEABLE UNDER TITLE
19 15, CHAPTER 200 OF THE MARYLAND RULES.

20 COMMITTEE NOTE:

21 Subsection (a) of this section was derived from former CJ § 3-827.

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

24 3-822.

25 (A) (1) AT EACH CINA HEARING, THE COURT SHALL INQUIRE INTO, AND
26 MAKE FINDINGS OF FACT ON THE RECORD AS TO, THE IDENTITY AND CURRENT
27 ADDRESS OF EACH PARENT OF EACH CHILD BEFORE THE COURT.

28 (2) IN CARRYING OUT PARAGRAPH (1) OF THIS SUBSECTION, THE COURT
29 SHALL:

30 (I) INFORM ALL PARTIES PRESENT OF THEIR CONTINUING
31 OBLIGATION TO ASSIST THE COURT IN IDENTIFYING AND LOCATING EACH PARENT
32 OF EACH CHILD;

33 (II) INFORM THE PARENTS PRESENT OF THEIR CONTINUING
34 OBLIGATION TO KEEP THE CLERK OF THE COURT APPRISED OF THEIR CURRENT
35 ADDRESS;

1 (III) INFORM THE PARENTS PRESENT OF AVAILABLE MEANS TO
2 ESTABLISH PATERNITY, IF NOT YET ESTABLISHED; AND

3 (IV) IF APPROPRIATE, REFER THE PARENTS TO THE APPROPRIATE
4 SUPPORT ENFORCEMENT AGENCY TO ESTABLISH PATERNITY AND SUPPORT.

5 (B) EACH PARENT OF A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING
6 SHALL NOTIFY THE COURT AND THE LOCAL DEPARTMENT OF ALL CHANGES IN THE
7 PARENT'S ADDRESS.

8 (C) THE CLERK OF THE COURT SHALL KEEP A LISTING OF EVERY ADDRESS
9 PROVIDED BY A PARENT OF A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING.

10 (D) ON REQUEST OF A LOCAL DEPARTMENT, THE CLERK'S OFFICE SHALL
11 DISCLOSE TO THE LOCAL DEPARTMENT ALL ADDRESSES LISTED BY A PARENT OF A
12 CINA WITHIN THE PRECEDING 9 MONTHS, FOR THE PURPOSE OF ATTEMPTING
13 NOTIFICATION OF A PETITION FOR GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
14 ADOPTION OR LONG-TERM CARE SHORT OF ADOPTION.

15 (E) THE COURT MAY:

16 (1) ORDER A PARENT OR PUTATIVE PARENT TO:

17 (I) APPLY FOR CHILD SUPPORT SERVICES WITH THE APPROPRIATE
18 SUPPORT ENFORCEMENT AGENCY; AND

19 (II) COOPERATE WITH THE APPROPRIATE AGENCY TO ESTABLISH
20 PATERNITY AND CHILD SUPPORT; AND

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

23 (F) ANY COURT MAY CONSIDER EVIDENCE TAKEN AND FINDINGS MADE ON
24 THE RECORD IN A CINA HEARING AND IN A PATERNITY, CUSTODY, CHILD SUPPORT,
25 OR GUARDIANSHIP PROCEEDING REGARDING THAT CHILD OR A SIBLING OF A CHILD.

26 COMMITTEE NOTE:

27 This section was derived by combining former CJ §§ 3-837 and 3-837.1.

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

30 3-823.

31 (A) (1) THE COURT SHALL HOLD A PERMANENCY PLANNING HEARING:

32 (I) NO LATER THAN 11 MONTHS AFTER A CHILD IN A CINA
33 PROCEEDING ENTERS AN OUT-OF-HOME PLACEMENT, AS DEFINED IN § 5-501 OF
34 THE FAMILY LAW ARTICLE, TO DETERMINE THE PERMANENCY PLAN FOR THE CHILD
35 COMMITTED UNDER § 3-819(B) OF THIS SUBTITLE; OR

1 (II) WITHIN 30 DAYS AFTER THE COURT FINDS THAT REASONABLE
2 EFFORTS TO REUNIFY A CHILD WITH THE CHILD'S PARENT OR GUARDIAN ARE NOT
3 REQUIRED BASED ON A FINDING THAT A CIRCUMSTANCE ENUMERATED IN § 3-812 OF
4 THIS SUBTITLE HAS OCCURRED.

5 (2) FOR PURPOSES OF THIS SECTION, A CHILD SHALL BE CONSIDERED
6 TO HAVE ENTERED AN OUT-OF-HOME PLACEMENT 30 DAYS AFTER THE CHILD IS
7 PLACED INTO AN OUT-OF-HOME PLACEMENT.

8 (3) IF ALL PARTIES AGREE, A PERMANENCY PLANNING HEARING MAY
9 BE HELD ON THE SAME DAY AS THE REASONABLE EFFORTS HEARING.

10 (B) (1) ON THE WRITTEN REQUEST OF A PARTY OR ON ITS OWN MOTION,
11 THE COURT MAY SCHEDULE A HEARING AT ANY EARLIER TIME TO DETERMINE A
12 PERMANENCY PLAN OR TO REVIEW THE IMPLEMENTATION OF A PERMANENCY PLAN
13 FOR ANY CHILD COMMITTED UNDER § 3-819 OF THIS SUBTITLE.

14 (2) A WRITTEN REQUEST FOR REVIEW SHALL STATE THE REASON FOR
15 THE REQUEST AND EACH ISSUE TO BE RAISED.

16 (C) AT LEAST 10 DAYS BEFORE THE PERMANENCY PLANNING HEARING, THE
17 LOCAL DEPARTMENT SHALL PROVIDE ALL PARTIES AND THE COURT WITH A COPY OF
18 THE LOCAL DEPARTMENT'S PERMANENCY PLAN FOR THE CHILD.

19 (D) AT A PERMANENCY PLANNING HEARING, THE COURT SHALL:

20 (1) DETERMINE THE CHILD'S PERMANENCY PLAN, WHICH MAY BE:

21 (I) REUNIFICATION WITH THE PARENT OR GUARDIAN;

22 (II) PLACEMENT WITH RELATIVES FOR:

23 1. ADOPTION; OR

24 2. CUSTODY AND GUARDIANSHIP;

25 (III) ADOPTION BY A NONRELATIVE;

26 (IV) GUARDIANSHIP BY A NONRELATIVE;

27 (V) CONTINUATION IN A SPECIFIED PLACEMENT ON A PERMANENT
28 BASIS BECAUSE OF THE CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES;

29 (VI) CONTINUATION IN PLACEMENT FOR A SPECIFIED PERIOD
30 BECAUSE OF THE CHILD'S SPECIAL NEEDS OR CIRCUMSTANCES; AND

31 (VII) INDEPENDENT LIVING; AND

32 (2) FOR A CHILD WHO HAS ATTAINED THE AGE OF 16, DETERMINE THE
33 SERVICES NEEDED TO ASSIST THE CHILD TO MAKE THE TRANSITION FROM
34 PLACEMENT TO INDEPENDENT LIVING.

1 (E) THE COURT MAY NOT ORDER A CHILD TO BE CONTINUED IN PLACEMENT
2 UNDER SUBSECTION (D)(1)(V) OR (VI) OF THIS SECTION UNLESS THE COURT FINDS
3 THAT THE AGENCY TO WHICH THE CHILD IS COMMITTED HAS DOCUMENTED A
4 COMPELLING REASON FOR DETERMINING THAT IT WOULD NOT BE IN THE BEST
5 INTEREST OF THE CHILD TO:

6 (1) RETURN HOME;

7 (2) BE REFERRED FOR TERMINATION OF PARENTAL RIGHTS; OR

8 (3) BE PLACED FOR ADOPTION OR GUARDIANSHIP WITH A SPECIFIED
9 AND APPROPRIATE RELATIVE OR LEGAL GUARDIAN WILLING TO CARE FOR THE
10 CHILD.

11 (F) IN THE CASE OF A CHILD FOR WHOM THE COURT DETERMINES THAT THE
12 PLAN SHOULD BE CHANGED TO ADOPTION UNDER SUBSECTION (D)(1)(III) OF THIS
13 SECTION, THE COURT SHALL:

14 (1) ORDER THE LOCAL DEPARTMENT TO FILE A PETITION FOR
15 GUARDIANSHIP IN ACCORDANCE WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW
16 ARTICLE WITHIN 30 DAYS OR, IF THE LOCAL DEPARTMENT DOES NOT SUPPORT THE
17 PLAN, WITHIN 60 DAYS; AND

18 (2) SCHEDULE A TPR HEARING INSTEAD OF THE NEXT 6-MONTH
19 REVIEW HEARING.

20 (G) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH, THE COURT SHALL CONDUCT A HEARING TO REVIEW THE
22 PERMANENCY PLAN AT LEAST EVERY 6 MONTHS UNTIL COMMITMENT IS RESCINDED.

23 (II) THE COURT IS NOT REQUIRED TO HOLD A REVIEW HEARING
24 EVERY 6 MONTHS AFTER THE COURT GRANTS GUARDIANSHIP OF THE CHILD TO A
25 RELATIVE OR OTHER PERSON, OR DETERMINES THAT THE CHILD SHALL BE
26 CONTINUED IN OUT-OF-HOME PLACEMENT WITH A SPECIFIC CAREGIVER WHO
27 AGREES TO CARE FOR THE CHILD ON A PERMANENT BASIS.

28 (2) AT THE REVIEW HEARING, THE COURT SHALL:

29 (I) DETERMINE THE CONTINUING NECESSITY FOR AND
30 APPROPRIATENESS OF THE COMMITMENT;

31 (II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE
32 PERMANENCY PLAN;

33 (III) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN MADE
34 TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING COMMITMENT;

35 (IV) PROJECT A REASONABLE DATE BY WHICH A CHILD IN
36 PLACEMENT MAY BE RETURNED HOME OR PLACED IN A PREADOPTIVE HOME, OR
37 PLACED UNDER A LEGAL GUARDIANSHIP;

1 (V) EVALUATE THE SAFETY OF THE CHILD AND TAKE NECESSARY
2 MEASURES TO PROTECT THE CHILD; AND

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

5 (3) EVERY REASONABLE EFFORT SHALL BE MADE TO EFFECTUATE A
6 PERMANENT PLACEMENT FOR THE CHILD WITHIN 24 MONTHS FROM THE DATE OF
7 INITIAL PLACEMENT.

8 (H) (1) IN THIS SUBSECTION, "PREADOPTIVE PARENT" MEANS AN
9 INDIVIDUAL WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5-301 OF THE
10 FAMILY LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE
11 INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE FINAL DECREE OF ADOPTION.

12 (2) IF PRACTICABLE, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 7
13 DAYS' NOTICE BEFORE ANY HEARING CONDUCTED UNDER THIS SECTION TO THE
14 CHILD'S FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE PROVIDING CARE
15 FOR THE CHILD.

16 (3) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR AN
17 ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE SHALL
18 BE GIVEN AN OPPORTUNITY TO BE HEARD AT THE HEARING.

19 (4) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR
20 ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF THE
21 RIGHT TO NOTICE AND OPPORTUNITY TO BE HEARD PROVIDED UNDER THIS
22 SUBSECTION.

23 (I) AT A REVIEW HEARING UNDER THIS SECTION, THE COURT SHALL
24 CONSIDER ANY WRITTEN REPORT OF A LOCAL OUT-OF-HOME PLACEMENT REVIEW
25 BOARD REQUIRED UNDER § 5-545 OF THE FAMILY LAW ARTICLE.

26 COMMITTEE NOTE:

27 This section was derived from former CJ § 3-826.1.

28 Subsection (c) of this section was revised to be consistent with proposed §
29 3-826 of this subtitle.

30 3-824.

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

33 (B) (1) THE COURT MAY ORDER EMERGENCY MEDICAL, DENTAL, OR
34 SURGICAL TREATMENT OF A CHILD ALLEGED TO HAVE A CONDITION OR ILLNESS
35 THAT, IN THE OPINION OF A LICENSED PHYSICIAN OR DENTIST, AS THE CASE MAY
36 BE, REQUIRES IMMEDIATE TREATMENT, IF THE CHILD'S PARENT, GUARDIAN, OR

1 CUSTODIAN IS NOT AVAILABLE OR, WITHOUT GOOD CAUSE, REFUSES TO CONSENT
2 TO THE TREATMENT.

3 (2) A CHILD MAY BE PLACED IN AN EMERGENCY FACILITY ON AN
4 EMERGENCY BASIS UNDER TITLE 10, SUBTITLE 6, PART IV OF THE HEALTH -
5 GENERAL ARTICLE.

6 (C) THE COURT SHALL APPLY THE FACTORS SPECIFIED IN § 13-711(B) OF THE
7 ESTATES AND TRUSTS ARTICLE, TO THE EXTENT RELEVANT, WHEN DECIDING
8 WHETHER TO WITHHOLD OR WITHDRAW A LIFE-SUSTAINING PROCEDURE, AS
9 DEFINED IN § 13-711(C) OF THE ESTATES AND TRUST ARTICLE.

10 COMMITTEE NOTE:

11 Subsection (a) of this section was derived from former CJ § 3-812(h).

12 Subsection (b) of this section was derived from former CJ §§ 3-820(g) and
13 3-822.

14 Subsection (c) of this section was added to address the requests that have
15 been presented to courts in CINA practice. The factors specified in this
16 subsection have already been determined to be appropriate by the General
17 Assembly.

18 3-825.

19 (A) A COURT MAY NOT COMMIT A CHILD WHO IS SUBJECT TO THIS SUBTITLE
20 TO, AND THE CHILD MAY NOT BE DETAINED AT OR TRANSFERRED TO, A
21 CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL SERVICES
22 ARTICLE.

23 (B) A CHILD WHO IS NOT A DELINQUENT CHILD, AS DEFINED IN § 3-8A-01 OF
24 THIS TITLE, MAY NOT BE COMMITTED OR TRANSFERRED TO A FACILITY USED FOR
25 THE CONFINEMENT OF DELINQUENT CHILDREN.

26 (C) UNLESS AN INDIVIDUALIZED TREATMENT PLAN DEVELOPED UNDER §
27 10-706 OF THE HEALTH - GENERAL ARTICLE INDICATES OTHERWISE, A CHILD MAY
28 NOT BE:

29 (1) COMMITTED OR TRANSFERRED TO ANY PUBLIC OR PRIVATE
30 FACILITY OR INSTITUTION UNLESS THE CHILD IS PLACED IN ACCOMMODATIONS
31 THAT ARE SEPARATE FROM ADULTS WHO ARE CONFINED TO THAT FACILITY OR
32 INSTITUTION; OR

33 (2) TREATED IN ANY GROUP WITH ADULTS.

34 COMMITTEE NOTE:

35 This section was derived from former CJ § 3-823.

36 In subsection (b), the reference to a "correctional facility, as defined in §

1 1-101 of the Correctional Services Article" was substituted for the former
2 reference to a "penal institution or other facility used primarily for the
3 confinement of adults charged with or convicted of a crime", to reflect
4 enactment of the Correctional Services Article by Ch. 54, Acts of 1999.

5 3-826.

6 (A) (1) UNLESS THE COURT DIRECTS OTHERWISE, A LOCAL DEPARTMENT
7 SHALL PROVIDE ALL PARTIES WITH A WRITTEN REPORT AT LEAST 10 DAYS BEFORE
8 ANY SCHEDULED DISPOSITION, PERMANENCY PLANNING, OR REVIEW HEARING
9 UNDER § 3-819 OR § 3-823 OF THIS SUBTITLE.

10 (2) THE TIME REQUIREMENTS SPECIFIED IN PARAGRAPH (1) OF THIS
11 SUBSECTION DO NOT APPLY TO AN EMERGENCY DISPOSITIONAL REVIEW HEARING
12 HELD UNDER § 3-820 OF THIS SUBTITLE.

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

17 COMMITTEE NOTE:

18 Subsection (a) of this section was added to be consistent with proposed §
19 3-823(c) of this subtitle.

20 Subsection (b) of this section was derived from former CJ § 3-826.

21 3-827.

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

26 (2) THIS SUBSECTION DOES NOT PROHIBIT REVIEW OF A COURT
27 RECORD BY:

28 (I) PERSONNEL OF THE COURT;

29 (II) A PARTY;

30 (III) COUNSEL FOR A PARTY;

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

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

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

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

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

6 (II) SHALL ORDER THEM SEALED AFTER THE CHILD HAS REACHED
7 THE AGE OF 21.

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

10 COMMITTEE NOTE:

11 This section was derived from former CJ § 3-828(b) and (c) and was
12 revised to permit parties and limited relevant persons to have access to
13 court records.

14 3-828.

15 (A) AN ADULT MAY NOT WILFULLY CONTRIBUTE TO, ENCOURAGE, CAUSE OR
16 TEND TO CAUSE ANY ACT, OMISSION, OR CONDITION THAT RENDERS A CHILD IN
17 NEED OF ASSISTANCE.

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

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

23 (D) A PETITION ALLEGING A VIOLATION OF THIS SECTION SHALL BE
24 PREPARED AND FILED BY THE STATE'S ATTORNEY.

25 (E) IF AN ADULT IS CHARGED UNDER THIS SECTION, THE ALLEGATIONS
26 SHALL BE PROVED BEYOND A REASONABLE DOUBT.

27 COMMITTEE NOTE:

28 Subsections (a), (b), and (c) of this section were derived without
29 substantive change from former CJ § 3-831, as it related to CINAs.

30 Subsections (d) and (e) were derived from former CJ §§ 3-812(b) and
31 3-819(c).

32 The omission of the sentence granting the court authority to suspend a
33 sentence, etc., is not intended to absolve the court of such authority. The
34 Committee deemed it unnecessary to state here because the court already
35 has the powers to suspend sentences, etc. The court may suspend a

1 sentence and place the adult on probation subject to the terms and
2 conditions it deems to be in the best interests of the child.

3 3-829.

4 A GOVERNING BODY OF A COUNTY MAY CREATE A JUVENILE COURT
5 COMMITTEE TO SERVE AS AN ADVISORY BODY TO THE COURT FOR THE COUNTY AND
6 SHALL DETERMINE THE COMPOSITION AND MEMBERS OF THE COMMITTEE.

7 COMMITTEE NOTE:

8 This section was derived from former CJ § 3-833.

9 3-830.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) "ADVOCATE" OR "C.A.S.A." MEANS A COURT-APPOINTED SPECIAL
13 ADVOCATE.

14 (3) "PROGRAM" MEANS A COURT-APPOINTED SPECIAL ADVOCATE
15 SERVICE THAT IS CREATED IN A COUNTY WITH THE SUPPORT OF THE COURT FOR
16 THAT COUNTY TO PROVIDE TRAINED VOLUNTEERS WHOM THE COURT MAY APPOINT
17 TO:

18 (I) PROVIDE THE COURT WITH BACKGROUND INFORMATION TO
19 AID IT IN MAKING DECISIONS IN THE CHILD'S BEST INTEREST; AND

20 (II) ENSURE THAT THE CHILD IS PROVIDED APPROPRIATE CASE
21 PLANNING AND SERVICES.

22 (B) (1) THERE IS A COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

23 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE VOLUNTEERS
24 WHOSE PRIMARY PURPOSE IS TO ENSURE THAT CHILDREN WHO ARE THE SUBJECT
25 OF A CINA PROCEEDING ARE PROVIDED WITH APPROPRIATE SERVICE AND CASE
26 PLANNING THAT IS IN THEIR BEST INTEREST.

27 (3) THE ADMINISTRATIVE OFFICE OF THE COURTS:

28 (I) SHALL ADMINISTER THE PROGRAM;

29 (II) SHALL REPORT ANNUALLY TO THE CHIEF JUDGE OF THE
30 COURT OF APPEALS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
31 ARTICLE, TO THE GENERAL ASSEMBLY REGARDING THE OPERATION OF THE
32 PROGRAM; AND

33 (III) MAY ADOPT RULES GOVERNING THE IMPLEMENTATION AND
34 OPERATION OF THE PROGRAM INCLUDING FUNDING, TRAINING, SELECTION, AND
35 SUPERVISION OF VOLUNTEERS.

1 (C) (1) THE GOVERNOR MAY INCLUDE FUNDS IN THE BUDGET TO CARRY
2 OUT THE PROVISIONS OF THIS SECTION.

3 (2) ANY STATE FUNDS AVAILABLE FOR THIS PROGRAM SHALL BE
4 ALLOCATED TO THE COUNTIES ON A 50% COST SHARING BASIS.

5 (D) AN ADVOCATE OR A MEMBER OF THE ADMINISTRATIVE STAFF OF THE
6 PROGRAM IS NOT LIABLE FOR AN ACT OR OMISSION IN PROVIDING SERVICES OR
7 PERFORMING A DUTY ON BEHALF OF THE PROGRAM, UNLESS THE ACT OR OMISSION
8 CONSTITUTES RECKLESS, WILLFUL, OR WANTON MISCONDUCT OR INTENTIONALLY
9 TORTIOUS CONDUCT.

10 COMMITTEE NOTE:

11 This section was derived from former CJ § 3-834.1.

12 The Committee recommends the repeal of the requirement of local
13 matching funds as of the fiscal year in which supplemental State funding
14 becomes available. See §§ 5 and 10 of this Act.

15 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Article - Courts and Judicial Proceedings**

18 3-813.

19 (c) The Office of the Public Defender may not represent a party in a CINA
20 proceeding unless THE PARTY:

21 (1) [The party is] IS the [custodial] parent or guardian of the alleged
22 CINA;

23 (2) [The proceeding is:

24 (i) Under § 3-815, § 3-817, or § 3-819 of this subtitle; or

25 (ii) Under Maryland Rule 11-115 or Maryland Rule 11-116 in
26 which:

27 1. The State has moved to remove the child from a parent's
28 or guardian's custody or the parent or guardian has moved to regain custody; and

29 2. Due to a complex factual or legal issue, assistance of
30 counsel is necessary to ensure against a risk of erroneous deprivation of custody;

31 (3) [The party applies] APPLIES to the Office of the Public Defender
32 requesting legal representation by the Public Defender in the proceeding; and

33 [(4)] (3) [The party is] IS financially eligible for the services of the
34 Public Defender.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Courts and Judicial Proceedings**

4 3-830.

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

7 [(2)] Any State funds available for this program shall be allocated to the
8 counties on a 50% cost sharing basis.]

9 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article - Courts and Judicial Proceedings**

12 SUBTITLE 8A. JUVENILE CAUSES - CHILDREN OTHER THAN CINAS AND ADULTS.

13 [3-801.] 3-8A-01.

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

16 (b) "Adjudicatory hearing" means a hearing UNDER THIS SUBTITLE to
17 determine whether the allegations in the petition, other than allegations that the
18 child requires [the court's assistance,] treatment, guidance or rehabilitation, are
19 true.

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

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

23 [(e)] "Child in need of assistance" is a child who requires the assistance of the
24 court because:

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

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

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

- 1 (1) Is required by law to attend school and is habitually truant;
- 2 (2) Is habitually disobedient, ungovernable, and beyond the control of
3 the person having custody of him;
- 4 (3) Departs himself so as to injure or endanger himself or others; or
- 5 (4) Has committed an offense applicable only to children.
- 6 [(g)] (F) "Citation" means the written form issued by a police officer which
7 serves as the initial pleading against a child for a violation and which is adequate
8 process to give the court jurisdiction over the person cited.
- 9 [(h)] (G) "Commit" means to transfer legal custody.
- 10 [(i)] (H) "Court" means [the]:
- 11 (1) A circuit court [of] FOR a county [or Baltimore City] sitting as the
12 juvenile court[. In]; OR
- 13 (2) IN Montgomery County, [it means] the District Court sitting as the
14 juvenile court and following the applicable rules of the circuit court.
- 15 [(j)] (I) "Custodian" means a person or agency to whom legal custody of a
16 child has been given by order of the court, other than the child's parent or legal
17 guardian.
- 18 [(k)] (J) "Delinquent act" means an act which would be a crime if committed
19 by an adult.
- 20 [(l)] (K) "Delinquent child" is a child who has committed a delinquent act and
21 requires guidance, treatment, or rehabilitation.
- 22 [(m)] (L) "Detention" means the temporary care of children who, pending court
23 disposition, require secure custody for the protection of themselves or the community,
24 in physically restricting facilities.
- 25 [(n)] (M) "Disposition hearing" means a hearing UNDER THIS SUBTITLE to
26 determine:
- 27 (1) Whether a child needs or requires [the court's assistance,] guidance,
28 treatment, or rehabilitation; and if so
- 29 (2) The nature of the [assistance,] guidance, treatment, or
30 rehabilitation.
- 31 [(o)] (N) "Intake officer" means the person assigned to the court by the
32 Department of Juvenile Justice to provide the intake services set forth in this
33 subtitle.

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

3 [(q) (O) "Mentally handicapped child" means a child who is or may be
4 mentally retarded or mentally ill.

5 [(r) (P) "Party" includes a child who is the subject of a petition, the child's
6 parent, guardian, or custodian, the petitioner and an adult who is charged under [§
7 3-831] § 3-8A-30 of this subtitle.

8 [(s) (Q) (1) "Shelter care" means the temporary care of children in
9 physically unrestricting facilities.

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

11 [(t) (R) (1) "Victim" means a person who suffers direct or threatened
12 physical, emotional, or financial harm as a result of a delinquent act.

13 (2) "Victim" includes a family member of a minor, disabled, or a deceased
14 victim.

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

17 [(u) (S) "Violation" means a violation of ARTICLE 27, § 400, § 400A, § 400B, §
18 401, or [§ 405A of Article 27] § 406 of the Code [and] OR § 26-103 of the Education
19 Article for which a citation is issued.

20 [(v) (T) "Witness" means any person who is or expects to be a State's witness.
21 [3-802.] 3-8A-02.

22 (a) The purposes of this subtitle are:

23 (1) To ensure that the Juvenile Justice System balances the following
24 objectives for children who have committed delinquent acts:

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

26 (ii) Accountability of the child to the victim and the community for
27 offenses committed; and

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

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

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

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

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

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

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

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

14 [3-804.] 3-8A-03.

15 (a) [The] IN ADDITION TO THE JURISDICTION SPECIFIED IN SUBTITLE 8 OF
16 THIS TITLE, THE court has exclusive original jurisdiction over:

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

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

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

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

24 [(c)] (B) The court has concurrent jurisdiction over proceedings against an
25 adult for the violation of [§ 3-831] § 3-8A-30 of this subtitle. However, the court may
26 waive its jurisdiction under this subsection upon its own motion or upon the motion of
27 any party to the proceeding, if charges against the adult arising from the same
28 incident are pending in the criminal court. Upon motion by either the State's Attorney
29 or the adult charged under [§ 3-831] § 3-8A-30 OF THIS SUBTITLE, the court shall
30 waive its jurisdiction, and the adult shall be tried in the criminal court according to
31 the usual criminal procedure.

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

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

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

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

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

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

16 (i) Abduction;

17 (ii) Kidnapping;

18 (iii) Second degree murder;

19 (iv) Manslaughter, except involuntary manslaughter;

20 (v) Second degree rape;

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

22 (vii) Second degree sexual offense in violation of Article 27, §
23 464A(a)(1) of the Code;

24 (viii) Third degree sexual offense in violation of Article 27, §
25 464B(a)(1) of the Code;

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

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

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

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

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

1 (xiv) Attempted murder in the second degree in violation of Article
2 27, § 411A of the Code;

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

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

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

11 [(f)] (E) If the child is charged with two or more violations of the Maryland
12 Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising
13 out of the same incident and which would result in the child being brought before both
14 the court and a court exercising criminal jurisdiction, the court has exclusive
15 jurisdiction over all of the charges.

16 3-8A-04.

17 THE PROVISIONS OF §§ 3-806, 3-807, AND 3-829 OF THIS TITLE GOVERN JUDGES,
18 MASTERS, AND LOCAL JUVENILE COURT COMMITTEES UNDER THIS SUBTITLE.

19 [3-805.] 3-8A-05.

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

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

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

27 [3-817.] 3-8A-06.

28 (a) The court may waive the exclusive jurisdiction conferred by [§ 3-804] §
29 3-8A-03 of this subtitle with respect to a petition alleging delinquency by:

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

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

34 (b) The court may not waive its jurisdiction UNDER THIS SECTION until after
35 it has conducted a waiver hearing, held prior to an adjudicatory hearing and after

1 notice has been given to all parties as prescribed by the Maryland Rules. The waiver
2 hearing is solely to determine whether the court should waive its jurisdiction.

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

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

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

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

12 (d) (1) The court may not waive its jurisdiction UNDER THIS SECTION unless
13 it determines, from a preponderance of the evidence presented at the hearing, that
14 the child is an unfit subject for juvenile rehabilitative measures.

15 (2) For purposes of determining whether to waive its jurisdiction UNDER
16 THIS SECTION, the court shall assume that the child committed the delinquent act
17 alleged.

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

20 (1) Age of the child;

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

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

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

26 (5) The public safety.

27 (f) If [the] jurisdiction is waived UNDER THIS SECTION, the court shall order
28 the child held for trial under the regular procedures of the court which would have
29 jurisdiction over the offense if committed by an adult. The petition alleging
30 delinquency shall be considered a charging document for purposes of detaining the
31 child pending a bail hearing.

32 (g) An order waiving jurisdiction is interlocutory.

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

1 [3-806.] 3-8A-07.

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

5 (b) This section does not affect the jurisdiction of other courts over a person
6 who commits an offense after [he] THE PERSON reaches the age of 18.

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

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

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

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

21 [3-807.]

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

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

28 [3-808.] 3-8A-08.

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

31 (b) If delinquency or violation of [§ 3-831] § 3-8A-30 OF THIS SUBTITLE is
32 alleged or if a citation is issued, the petition, if any, or the citation shall be filed in the
33 county where the alleged act occurred subject to transfer as provided in [§ 3-809] §
34 3-8A-09 OF THIS SUBTITLE.

35 (c) If the alleged delinquent act is escape or attempted escape from a training
36 school or similar facility operated by the Department of Juvenile Justice, the petition,
37 if any, shall be filed and the adjudicatory hearing held in the county where the alleged

1 escape or attempted escape occurred unless the court in the county of the child's
2 domicile requests a transfer. For purposes of the disposition hearing, proceedings may
3 be transferred as provided in [§ 3-809] § 3-8A-09 OF THIS SUBTITLE to the court
4 exercising jurisdiction over the child at the time of the alleged act.

5 [3-809.] 3-8A-09.

6 (a) (1) If a petition or citation is filed UNDER THIS SUBTITLE in a county
7 other than the county where the child is living or domiciled, the court on its own
8 motion or on motion of a party, may transfer the proceedings to the county of
9 residence or domicile at any time prior to final termination of jurisdiction, except that
10 the proceedings may not be transferred until after an adjudicatory hearing if the
11 allegation is escape or attempted escape from a training school or similar facility
12 operated by the Department of Juvenile Justice.

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

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

17 [3-810.] 3-8A-10.

18 (A) THIS SECTION DOES NOT APPLY TO ALLEGATIONS THAT A CHILD IS IN
19 NEED OF ASSISTANCE, AS DEFINED IN § 3-801 OF THIS TITLE.

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

21 (B) AN intake officer shall receive:

22 (1) Complaints from a person or agency having knowledge of facts which
23 may cause a person to be subject to the jurisdiction of the court UNDER THIS
24 SUBTITLE; and

25 (2) Citations issued by a police officer under [§ 3-835] § 3-8A-33 of this
26 [article] SUBTITLE.

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

30 (1) File a petition;

31 (2) Authorize the person or agency making the complaint to file a
32 petition; or

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

34 (c) (1) Except as otherwise provided in this subsection, in considering the
35 complaint, the intake officer shall make an inquiry within 25 days as to whether the

1 court has jurisdiction and whether judicial action is in the best interests of the public
2 or the child.

3 (2) An inquiry need not include an interview of the child who is the
4 subject of the complaint if the complaint alleges the commission of a delinquent act
5 that would be a felony if committed by an adult or alleges a violation of Article 27, §
6 36B of the Code.

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

9 (i) Authorize the filing of a petition;

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

11 (iii) Refuse authorization to file a petition.

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

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

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

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

25 1. File a petition;

26 2. Refer the complaint to the Department of Juvenile Justice
27 for informal disposition; or

28 3. Dismiss the complaint.

29 (iii) This subsection may not be construed or interpreted to limit the
30 authority of the State's Attorney to seek a waiver under [§ 3-817] § 3-8A-06 of this
31 subtitle.

32 (c-1) (1) In this subsection, "seriously emotionally disturbed" has the meaning
33 stated in § 15-130 of the Health - General Article.

34 (2) (i) As soon as possible and in no event later than 25 days after
35 receipt of a complaint, the intake officer shall discuss with the child who is the subject

1 of a complaint and the child's parent or guardian information regarding a referral for
2 a mental health and substance abuse screening of the child.

3 (ii) The screening authorized under subparagraph (i) of this
4 paragraph shall be conducted by a person who:

- 5 1. Has been selected by the child's parent or guardian;
- 6 2. Has been approved by the child's health insurance carrier;
- 7 and
- 8 3. Is:
 - 9 A. A qualified health, mental health, or substance abuse
10 professional; or
 - 11 B. Staff trained by a qualified health, mental health, or
12 substance abuse professional.

13 (iii) Within 15 days of the date of the discussion with the child and
14 the child's parent or guardian, the intake officer shall document whether the child's
15 parent or guardian made an appointment for a mental health and substance abuse
16 screening of the child who is the subject of a complaint.

17 (3) If, as a result of the screening authorized under paragraph (2) of this
18 subsection, it is determined that the child is a mentally handicapped or seriously
19 emotionally disturbed child, or is a substance abuser, the qualified health, mental
20 health, or substance abuse professional or staff, no later than 5 working days after
21 the screening, shall conduct a comprehensive mental health or substance abuse
22 assessment of the child.

23 (4) The Department of Juvenile Justice and the Department of Health
24 and Mental Hygiene:

25 (i) May not disclose to any person any information received by the
26 Departments relating to a specific mental health and substance abuse screening or
27 assessment conducted under this section that could identify the child who was the
28 subject of the screening or assessment; and

29 (ii) May make public other information unless prohibited by law.

30 (5) The Secretary of Juvenile Justice and the Secretary of Health and
31 Mental Hygiene jointly shall adopt any regulation necessary to carry out this
32 subsection.

33 (d) (1) The intake officer or the local department may authorize the filing of
34 a petition if, based upon the complaint and the inquiry, the intake officer [or the local
35 department] concludes that the court has jurisdiction over the matter and that
36 judicial action is in the best interests of the public or the child.

1 (2) An inquiry need not include an interview of the child who is the
2 subject of the complaint if the complaint alleges the commission of a delinquent act
3 that would be a felony if committed by an adult or alleges a violation of Article 27, §
4 36B of the Code.

5 (3) In delinquency cases, the need for restitution may be considered by
6 the intake officer as one factor in the public interest.

7 (4) The intake officer [or the local department] shall inform the
8 following persons of the authorization decision and the reasons for the decision:

9 (i) The child who is the subject of the complaint, if practicable;

10 (ii) The parent, guardian, or custodian of the child who is the
11 subject of the complaint;

12 (iii) The victim;

13 (iv) The arresting police officer; and

14 (v) The person or agency that filed the complaint or caused it to be
15 filed.

16 (e) (1) The intake officer may propose an informal adjustment of the matter
17 if based on the complaint and the inquiry, the intake officer concludes that the court
18 has jurisdiction but that an informal adjustment, rather than judicial action, is in the
19 best interests of the public and the child.

20 (2) The intake officer shall propose an informal adjustment by informing
21 the victim, the child, and the child's parent or guardian of the nature of the complaint,
22 the objectives of the adjustment process, and the conditions and procedures under
23 which it will be conducted.

24 (3) The intake officer shall not proceed with an informal adjustment
25 unless the victim, the child, and the child's parent or guardian consent to the informal
26 adjustment procedure.

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

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

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

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

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

9 (2) In that event, through use of the form prescribed by [§ 3-810.1] §
10 3-8A-11 of this [article] SUBTITLE, the intake officer shall inform the following
11 persons of the decision, the reasons for it, and their right of review provided in this
12 section:

13 (i) The victim;

14 (ii) The arresting police officer; and

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

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

20 (i) The victim;

21 (ii) The arresting police officer; and

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

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

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

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

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

34 (i) (1) If authorization to file a petition for a complaint which alleges a child
35 is in need of supervision is denied, the person or agency that filed the complaint or
36 caused it to be filed, within 15 days of personal notice of the denial to that person or

1 agency or the mailing to the last known address, may submit the denial for review by
2 the Department of Juvenile Justice Area Director for the area in which the complaint
3 was filed.

4 (2) The Department of Juvenile Justice Area Director shall review the
5 denial.

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

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

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

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

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

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

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

27 [(l) (K) (1) If the intake officer receives a citation other than a citation
28 authorized under Article 27, [§ 405A] § 406 of the Code, the intake officer may:

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

31 [(2) (II) Assign the child to a supervised work program for not more
32 than 20 hours for the first violation and not more than 40 hours for the second or
33 subsequent violation;

34 [(3) (III) Require the parent or guardian of the child to withdraw the
35 parent's or guardian's consent to the child's license to drive, and advise the Motor
36 Vehicle Administration of the withdrawal of consent; or

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

1 [(m)] (2) The intake officer shall forward the citation, other than a citation
2 authorized under Article 27, [§ 405A] § 406 of the Code, to the State's Attorney if:

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

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

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

9 [(n)] (L) (1) If the intake officer receives a citation authorized under
10 Article 27, [§ 405A] § 406 of the Code, the intake officer may:

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

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

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

17 [(o)] (2) The intake officer shall forward the citation authorized under Article
18 27, [§ 405A] § 406 of the Code to the State's Attorney if the child fails to comply with
19 a smoking program referral or a supervised work program assignment described
20 under [subsection (n)] PARAGRAPH (1) of this [section] SUBSECTION.

21 [(p)] (M) (1) Except as provided in paragraph (2) of this subsection, within
22 15 days after a law enforcement officer takes a child into custody UNDER THIS
23 SUBTITLE the law enforcement officer shall file a complaint with an intake officer.

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

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

29 [3-810.1.] 3-8A-11.

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

33 Date: (Date form is mailed)

34 Re:

35 Offense No.:

36 Date of Offense:

1 Nature of Offense:

2

3

4

5 Dear

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

11 The reasons for this decision are as follows:

12 The juvenile was issued a reprimand and warned against future involvement
13 in delinquent activities.

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

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

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

21 This case is not legally sufficient.

22 Additional Comments:

23

24

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

28 (Date)

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

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

34 Sincerely,

35

36 Intake Officer

37

1

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

4	(To be filled in
5	by intake officer
6	prior to mailing
7 (Name and	to person being
8 address of appropriate	informed of intake
9 State's Attorney authority)	decision)

10 Re:	(To be filled in
11 Offense:	by intake officer
12 Date of Offense:	prior to mailing
13 Nature of Offense:	to person being
14	informed of intake
15	decision)

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

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

20
21 Signed

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

26 [3-811.] 3-8A-12.

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

31 (b) Any information secured or statement made by a participant during a
32 preliminary or further inquiry pursuant to [§ 3-810] § 3-8A-10 OF THIS SUBTITLE or
33 a study pursuant to [§ 3-818] § 3-8A-17 OF THIS SUBTITLE may not be admitted in
34 evidence in any adjudicatory hearing except on the issue of respondent's competence
35 to participate in the proceedings and responsibility for his conduct as provided in §
36 12-108 of the Health - General Article where a petition alleging delinquency has been
37 filed, or in a criminal proceeding prior to conviction.

38 (c) A statement made by a child, his parents, guardian or custodian at a
39 waiver hearing is not admissible against him or them in criminal proceedings prior to

1 conviction except when the person is charged with perjury, and the statement is
2 relevant to that charge and is otherwise admissible.

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

7 [3-812.] 3-8A-13.

8 (a) A petition shall allege that a child is either delinquent, or in need of
9 assistance, or in need of supervision. If it alleges delinquency, it shall set forth in clear
10 and simple language the alleged facts which constitute the delinquency, and shall also
11 specify the laws allegedly violated by the child. If it alleges that the child is [in need
12 of assistance or] in need of supervision, the petition shall set forth in clear and simple
13 language the alleged facts supporting that allegation.

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

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

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

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

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

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

39 (4) For good cause shown, the court may exclude the general public from
40 a hearing or other proceeding in a case in which a child is alleged to have committed

1 a delinquent act that would be a felony if committed by an adult and admit only the
2 victim and those persons having a direct interest in the proceeding and their
3 representatives.

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

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

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

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

16 [(h)] (G) The court shall hear and rule on a petition seeking an order for
17 emergency medical treatment on an expedited basis.

18 [3-814.] 3-8A-14.

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

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

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

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

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

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

33 (1) Release the child to his parents, guardian, or custodian or to any
34 other person designated by the court, upon their written promise to bring the child
35 before the court when requested by the court, and such security for the child's
36 appearance as the court may reasonably require, unless his placement in detention or

1 shelter care is permitted and appears required by [§ 3-815] § 3-8A-15 OF THIS
2 SUBTITLE; or

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

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

9 [3-815.] 3-8A-15.

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

14 (b) If a child is taken into custody UNDER THIS SUBTITLE, the child may be
15 placed in detention prior to a hearing if:

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

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

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

22 (c) A child taken into custody UNDER THIS SUBTITLE may be placed in
23 emergency shelter care prior to a hearing if:

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

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

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

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

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

1 (d) (1) If the child is not released, the intake officer or the official who
2 authorized detention or shelter care UNDER THIS SECTION shall immediately file a
3 petition to authorize continued detention or shelter care.

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

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

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

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

16 [(6) (5) For a child in need of supervision or a delinquent child, shelter
17 care may be extended for an additional period of not more than 30 days if the court
18 finds after a hearing held as part of the adjudication that continued shelter care is
19 consistent with the circumstances stated in subsections (b) and (c) of this section.

20 [(7) (6) (i) An adjudicatory or waiver hearing shall be held no later
21 than 30 days after the date a petition for detention is granted.

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

24 (iii) Detention time may be extended in increments of not more than
25 14 days where the petition charges the child with a delinquent act and where the
26 court finds, after a subsequent hearing, that extended detention is necessary either:

27 1. For the protection of the child; or

28 2. For the protection of the community.

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

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

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

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

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

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

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

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

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

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

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

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

20 (II) A State mental health facility; OR

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

23 [(ii) If the child is alleged to be in need of assistance by reason of a
24 mental handicap, the child may be placed in shelter care facilities maintained or
25 licensed by the Department of Health and Mental Hygiene or if these facilities are not
26 available, then in a private home or shelter care facility approved by the court.

27 (iii) If the]

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

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

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

- 6 (i) Health care services;
- 7 (ii) Counseling services;
- 8 (iii) Education services;
- 9 (iv) Social work services; and
- 10 (v) Drug and alcohol abuse assessment or treatment services.

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

- 12 (i) The [local department of social services or the] Department of
13 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter
14 care facility to assess the child's treatment needs; and
- 15 (ii) The plan to be submitted to all parties to the petition and their
16 counsel.

17 (i) The intake officer or the official who authorized detention or shelter care
18 UNDER THIS SUBTITLE shall immediately give written notice of the authorization for
19 detention or shelter care to the child's parent, guardian, or custodian[,] and to the
20 court. The notice shall be accompanied by a statement of the reasons for taking the
21 child into custody and placing him in detention or shelter care. This notice may be
22 combined with the notice required under subsection (d) of this section.

23 [3-818.] 3-8A-17.

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

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

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

1 [3-819.] 3-8A-18.

2 (a) After a petition or citation has been filed WITH THE COURT UNDER THIS
3 SUBTITLE, and unless jurisdiction has been waived, the court shall hold an
4 adjudicatory hearing.

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

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

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

12 (d) In all other cases UNDER THIS SUBTITLE the allegations must be proved by
13 a preponderance of the evidence.

14 [3-820.] 3-8A-19.

15 (a) (1) After an adjudicatory hearing the court shall hold a separate
16 disposition hearing, unless the petition or citation is dismissed or unless such hearing
17 is waived in writing by all of the parties.

18 (2) [Except as provided in paragraph (3) of this subsection, the] A
19 disposition hearing may be held on the same day as the adjudicatory hearing, if notice
20 of the disposition hearing, as prescribed by the Maryland Rules, is waived on the
21 record by all of the parties.

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

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

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

28 (b) The priorities in making a disposition are consistent with the purposes
29 specified in [§ 3-802] § 3-8A-02 of this subtitle.

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

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

35 (ii) Subject to the provisions of paragraph (2) of this subsection,
36 commit the child to the custody or under the guardianship of the Department of

1 Juvenile Justice, a local department of social services, the Department of Health and
2 Mental Hygiene, or a public or licensed private agency on terms that the court
3 considers appropriate to meet the priorities set forth in § 3-802 of this subtitle,
4 including designation of the type of facility where the child is to be accommodated,
5 until custody or guardianship is terminated with approval of the court or as required
6 under [§ 3-825] § 3-8A-24 of this subtitle; or

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

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

15 (3) The court shall consider any oral address made in accordance with
16 Article 27, § 780 of the Code or any victim impact statement, as described in Article
17 27, § 781 of the Code, in determining an appropriate disposition on a petition.

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

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

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

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

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

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

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

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

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

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

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

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

18 (3) (i) The provisions of paragraphs (1) and (2) of this subsection do
19 not apply to a child found to have committed a violation under Article 27, [§ 405A] §
20 406 of the Code.

21 (ii) In making a disposition on a finding that the child has
22 committed a violation under Article 27, [§ 405A] § 406 of the Code, the court may:

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

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

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

32 (4) (i) In making a disposition on a finding that the child has
33 committed a violation under Article 27, § 139C, § 151A, or § 151C of the Code, the
34 court may order the Motor Vehicle Administration to initiate an action, under the
35 Maryland Vehicle Law, to suspend the driving privilege of a child for a specified
36 period not to exceed:

37 1. For a first offense, 6 months; and

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

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

13 (2) [At] IF, AT any time after the commitment of the child to a State
14 mental hospital [if] UNDER THIS SECTION, the individualized treatment plan
15 developed under § 10-706 of the Health - General Article recommends that a child no
16 longer meets the standards SPECIFIED in subsection (h) OF THIS SECTION, then the
17 court shall grant a hearing to review the commitment order. The court may grant a
18 hearing at any other time for the purpose of determining if the [standard]
19 STANDARDS SPECIFIED in subsection (h) OF THIS SECTION [continues] CONTINUE to
20 be met.

21 (3) [Any] IF, AT ANY time after the commitment of the child to a State
22 mental retardation facility [if] UNDER THIS SECTION, the individualized plan of
23 habilitation developed under § 7-1006 of the Health - General Article recommends
24 that a child no longer meets the standards SPECIFIED in subsection (i) OF THIS
25 SECTION, then the court shall grant a hearing to review the commitment order. The
26 court may grant a hearing at any other time for the purpose of determining if the
27 [standard] STANDARDS SPECIFIED in subsection (i) OF THIS SECTION [continues]
28 CONTINUE to be met.

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

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

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

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

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

1 [3-821.] 3-8A-20.

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

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

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

10 (2) The party is indigent; and

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

13 (ii) 1. The proceeding is a review hearing under Maryland Rule
14 11-115 or Maryland Rule 11-116 in which:

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

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

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

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

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

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

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

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

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

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

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

3 (iv) The party is financially eligible for the services of the Public
4 Defender.

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

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

11 [3-822.] 3-8A-21.

12 The court may order emergency medical, dental, or surgical treatment of a child
13 alleged to be suffering from a condition or illness which, in the opinion of a licensed
14 physician or dentist, as the case may be, requires immediate treatment, if the child's
15 parent, guardian, or custodian is not available or, without good cause, refuses to
16 consent to the treatment.

17 [3-823.] 3-8A-22.

18 (a) A child may not be detained at, or committed or transferred [to] TO, a
19 [penal institution or other facility used primarily for the confinement of adults
20 charged with or convicted of a crime] CORRECTIONAL FACILITY, AS DEFINED IN §
21 1-101 OF THE CORRECTIONAL SERVICES ARTICLE, except [pursuant to § 3-816(b)] IN
22 ACCORDANCE WITH § 3-8A-16 OF THIS SUBTITLE.

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

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

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

31 (2) The child may not be treated in any group with persons who are 18
32 years of age or older.

33 [3-825.] 3-8A-24.

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

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

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

8 [3-826.] 3-8A-25.

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

13 [3-827.] 3-8A-26.

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

17 (1) The court finds that the conduct:

18 (i) Is or may be detrimental or harmful to a child over whom the
19 court has jurisdiction; or

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

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

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

26 [3-828.] 3-8A-27.

27 (a) (1) A police record concerning a child is confidential and shall be
28 maintained separate from those of adults. Its contents may not be divulged, by
29 subpoena or otherwise, except by order of the court upon good cause shown or as
30 otherwise provided in § 7-303 of the Education Article.

31 (2) This subsection does not prohibit:

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

35 (ii) A law enforcement agency of the State or of a political
36 subdivision of the State or the criminal justice information system from including, in

1 the law enforcement computer information system, information about an outstanding
2 juvenile court ordered writ of attachment, for the sole purpose of apprehending a child
3 named in the writ.

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

7 (2) This subsection does not prohibit access to and the use of the court
8 record or fingerprints of a child described under the Criminal Justice Information
9 System subtitle of Article 27 of the Code in a proceeding in the court involving the
10 child, by personnel of the court, the State's Attorney, counsel for the child, a
11 court-appointed special advocate for the child, or authorized personnel of the
12 Department of Juvenile Justice[, or, in a proceeding involving a child alleged to be in
13 need of assistance, by authorized personnel of the Social Services Administration and
14 local departments of social services of the Department of Human Resources in order
15 to conduct a child abuse or neglect investigation or to comply with requirements
16 imposed under Title IV-E of the Social Security Act.]

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

20 [(4)] (3) (i) Except as provided in subparagraph (ii) of this paragraph,
21 this subsection does not prohibit access to and confidential use of the court record or
22 fingerprints of a child described under the Criminal Justice Information System
23 subtitle of Article 27 of the Code in an investigation and prosecution by a law
24 enforcement agency.

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

- 27 1. A federal criminal justice agency or information center; or
28 2. Any law enforcement agency other than a law enforcement
29 agency of the State or a political subdivision of the State.

30 [(5)] (4) (i) This subsection does not prohibit access to and use of a
31 court record by a judicial officer who is authorized under the Maryland Rules to
32 determine a defendant's eligibility for pretrial release, counsel for the defendant, or
33 the State's Attorney if:

- 34 1. The individual who is the subject of the court record is
35 charged as an adult with an offense;
36 2. The access to and use of the court record is strictly limited
37 for the purpose of determining the defendant's eligibility for pretrial release; and
38 3. The court record concerns an adjudication of delinquency
39 that occurred within 3 years of the date the individual is charged as an adult.

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

3 (c) The court, on its own motion or on petition, and for good cause shown, may
4 order the court records of a child sealed, and, upon petition or on its own motion, shall
5 order them sealed after the child has reached 21 years of age. If sealed, the court
6 records of a child may not be opened, for any purpose, except by order of the court
7 upon good cause shown.

8 (d) This section does not prohibit access to or use of any juvenile record by the
9 Maryland Division of Parole and Probation or the Maryland Parole Commission when
10 the Division or the Commission is carrying out any of their statutory duties either at
11 the direction of a court of competent jurisdiction, or when the Maryland Parole
12 Commission is carrying out any of its statutory duties, if the record concerns a charge
13 or adjudication of delinquency.

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

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

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

26 [3-830.] 3-8A-29.

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

31 [3-831.] 3-8A-30.

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

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

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

5 [3-834.] 3-8A-32.

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

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

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

21 (ii) In an action in which an attorney has previously been
22 appointed, strike the appearance of the attorney previously appointed, and appoint
23 the attorney who is currently under contract with the Department of Human
24 Resources, in accordance with the terms of the contract.]

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

27 [(c) In addition to, but not instead of, the appointment of an attorney under
28 subsection (a) of this section, the court, in any action, may appoint an individual
29 provided by the Court-Appointed Special Advocate Program established under §
30 3-834.1 of this subtitle.]

31 [3-835.] 3-8A-33.

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

34 (1) Article 27, § 400, § 400A, § 400B, § 401, or [§ 405A] § 406 of the Code;
35 or

36 (2) § 26-103 of the Education Article.

37 (b) A citation issued under this section shall be in a format prescribed by the
38 Chief Judge of the District Court of Maryland after consultation with police

1 administrators and the Motor Vehicle Administrator. The uniform motor vehicle
2 citation form shall be printed by the District Court, and all other citation forms shall
3 be printed by the law enforcement agencies of the State and signed by the issuing
4 officer and shall contain:

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

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

8 (3) The statute allegedly violated;

9 (4) The time, place, and date of the violation;

10 (5) The driver's license number of the child, if the child possesses a
11 driver's license;

12 (6) The registration number of the motor vehicle, motorcycle, or other
13 vehicle, if applicable;

14 (7) The signature of the child; and

15 (8) The penalties which may be imposed under [§ 3-820] § 3-8A-19 of
16 this subtitle.

17 (c) A copy of the citation issued under this section shall be:

18 (1) Given to the child being charged;

19 (2) Retained by the officer issuing the citation;

20 (3) Mailed within 7 days to the child's parent or legal guardian; and

21 (4) Filed with the intake officer of the court having jurisdiction under
22 this subtitle.

23 4-301.

24 (a) Except as provided in [§ 4-302 and § 3-804] §§ 3-803, 3-8A-03, AND 4-302
25 OF THIS ARTICLE, the District Court has exclusive original jurisdiction in a criminal
26 case in which a person at least 16 years old or a corporation is charged with violation
27 of the vehicle laws, or the State Boat Act, or [rules and] regulations adopted
28 pursuant to [it] THE VEHICLE LAWS OR STATE BOAT ACT.

29 5-805.

30 (a) (3) "Offender" means a person assigned or ordered to perform
31 community service:

1 (i) By a court [according to the provisions of Article 27, § 726A of
2 the Code] UNDER TITLE 8, SUBTITLE 7 OF THE CORRECTIONAL SERVICES ARTICLE or
3 [§ 3-820] § 3-8A-19 of this article; or

4 (ii) By an intake officer under [§ 3-810] § 3-8A-10 of this article.

5 (5) "Private provider" means an organization that:

6 (ii) 2. Provides work projects for juveniles assigned or ordered to
7 perform community service under [§ 3-810] § 3-8A-10 or [§ 3-820] § 3-8A-19 of this
8 article; or

9 12-403.

10 (a) An appeal from the District Court sitting in one of the counties shall be
11 taken to the circuit court [of] FOR the county in which judgment was entered. In
12 Montgomery County, an appeal from the District Court sitting as a juvenile court
13 shall be as provided for in [§ 3-832] §§ 3-808(C) AND 3-8A-31 of this article.

14 **Article - Education**

15 7-303.

16 (a) (5) "Reportable offense" means:

17 (ii) Any of the offenses enumerated in [§ 3-804(e)(4)] §
18 3-8A-03(D)(4) of the Courts Article;

19 26-103.

20 (b) (1) Any person under 18 years of age who violates the provisions of this
21 section shall be issued a citation and be subject to the dispositions for a violation
22 under TITLE 3, Subtitle [8] 8A [of Title 3] of the Courts [and Judicial Proceedings]
23 Article.

24 **Article - Family Law**

25 5-322.

26 (a) (1) (ii) In addition to the notice of filing required under subparagraph
27 (i) of this paragraph, if a petition for guardianship is filed after a juvenile proceeding
28 in which the child has been adjudicated to be a child in need of assistance[, a
29 neglected child, or an abused child], a petitioner shall give notice of the filing of the
30 petition for guardianship to:

31 1. the attorney who represented a natural parent in the
32 juvenile proceeding; and

33 2. the attorney who represented the minor child in the
34 juvenile proceeding.

1 (b) If a petition for guardianship is filed after a juvenile proceeding in which
2 the child has been adjudicated to be a child in need of assistance, the petitioner shall
3 give notice to the child's natural parent by serving a show cause order by certified
4 mail or private process on the natural parent:

5 (1) if the natural parent was present at a CINA hearing and notified by
6 the court of the requirements of [§ 3-837] § 3-822 of the Courts Article:

7 (i) at the latest address listed in juvenile court records maintained
8 in accordance with [§ 3-837] § 3-822 of the Courts Article;

9 (2) if the natural parent was not present at a CINA hearing and notified
10 by the court of the requirements of [§ 3-837] § 3-822 of the Courts Article:

11 (i) at the latest address, if any, listed in juvenile court records
12 maintained in accordance with [§ 3-837] § 3-822 of the Courts Article; or

13 5-525.

14 (d) (1) Unless a court orders that reasonable efforts are not required under
15 [§ 3-812.1] § 3-812 of the Courts Article or § 5-313 of this title, reasonable efforts
16 shall be made to preserve and reunify families:

17 (i) prior to the placement of a child in an out-of-home placement,
18 to prevent or eliminate the need for removing the child from the child's home; and

19 (ii) to make it possible for a child to safely return to the child's
20 home.

21 **Article - Health - General**

22 10-923.

23 (a) Application for placement of a child or adolescent in a private therapeutic
24 group home may be made under this section by:

25 (4) On behalf of a child or adolescent, a local department of social
26 services [when the local department] THAT has custody or guardianship of the child
27 or adolescent under [§ 3-820] § 3-819 of the Courts [and Judicial Proceedings]
28 Article;

29 (6) On behalf of a child or adolescent, the Department of Juvenile Justice
30 when the Department has custody or guardianship of the child or adolescent under [§
31 3-820] § 3-819 of the Courts [and Judicial Proceedings] Article; or

32 (7) The circuit court [of] FOR a county[, Baltimore City] sitting as the
33 juvenile court[, and] OR, in Montgomery County, the District Court sitting as THE
34 juvenile court.

1

Article - Insurance

2 19-515.

3 An insurer may not refuse to issue or renew a motor vehicle liability insurance
4 policy under this subtitle on the ground that the applicant has been issued a citation
5 under [§ 3-835] § 3-8A-33 of the Courts Article.

6

Article - Natural Resources

7 8-712.2.

8 (e) A juvenile charged with any violation under this section shall be charged
9 [under] AS PROVIDED IN Title 3, [Subtitle 8] SUBTITLE 8A of the Courts [and
10 Judicial Proceedings] Article.

11

Article - Transportation

12 16-206.

13 (b) (1) Upon notification by the clerk of the court that a child has been
14 adjudicated delinquent for a violation of § 21-902 of this article, or that a finding has
15 been made that a child violated § 21-902 of this article, the Administration shall
16 suspend or revoke the driving privilege of the child in accordance with [§
17 3-824(a)(4)(i)] § 3-8A-23(A)(4)(I) of the Courts Article.

18 (c) (1) Pursuant to a court order under [§ 3-820(d)] § 3-8A-19(D) of the
19 Courts Article, the Administration shall initiate an action to suspend the driving
20 privilege of a child for the time specified by the court.

21 (2) If a child subject to a suspension under [§ 3-820(d)] § 3-8A-19(D) of
22 the Courts Article does not hold a license to operate a motor vehicle on the date of the
23 court order, the suspension shall commence:

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

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

28 24-304.

29 (b) The charging of a person with a violation of this subtitle shall be by means
30 of a traffic citation in the form determined under [§ 3-835(b)] § 3-8A-33(B) of the
31 Courts Article.

Article 27 - Crimes and Punishments

2 402.

3 (a) Any person under the age of 18 years who violates [the provisions] ANY
4 PROVISION of this subheading shall be issued a citation by a police officer authorized
5 to make arrests and shall be subject to the procedures and dispositions provided in
6 [Subtitle 8 of] Title 3, SUBTITLE 8A of the Courts [and Judicial Proceedings] Article.
7 594A.

8 (a) In this section, "victim" has the meaning stated in [§ 3-801] § 3-8A-01 of
9 the Courts Article.

10 (b) [In any case, except] EXCEPT as provided in subsection (c) of this section,
11 IN ANY CASE involving a child who has reached 14 years of age but has not reached 18
12 years of age at the time of any alleged offense excluded under the provisions of [§
13 3-804(e)(1), (4), or (5)] § 3-8A-03(D)(1), (4), OR (5) of the Courts [and Judicial
14 Proceedings] Article, the CRIMINAL court exercising jurisdiction may transfer the
15 case to the juvenile court if a waiver is believed to be in the interests of the child or
16 society.

17 (c) [The] A CRIMINAL court may not transfer a case to [the] A juvenile court
18 under subsection (b) of this section if:

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

21 (2) The child was convicted in another unrelated case excluded from the
22 jurisdiction of the juvenile court under [§ 3-804(e)(1) or (4)] § 3-8A-03(D)(1) OR (4) of
23 the Courts [and Judicial Proceedings] Article; or

24 (3) The alleged offense is murder in the first degree and the accused
25 child is 16 or 17 at the time the [alleged] offense ALLEGEDLY was committed.

26 737.

27 (b) (1) IN THIS SUBSECTION, "DELINQUENCY PETITION" MEANS A PETITION
28 FILED UNDER § 3-8A-10 OF THE COURTS ARTICLE.

29 (2) [If a criminal charge was transferred to the juvenile court under §
30 594A of this article, a] A court shall grant a petition for expungement OF A CRIMINAL
31 CHARGE TRANSFERRED TO A JUVENILE COURT UNDER § 594A OF THIS ARTICLE, if:

32 (i) The charge [transferred under § 594A of this article] did not
33 result in the filing of a DELINQUENCY petition [under § 3-810 of the Courts and
34 Judicial Proceedings Article]; or

1 (ii) The [charge did result in the filing of a petition under § 3-810
2 of the Courts and Judicial Proceedings Article but the] decision on the DELINQUENCY
3 petition was a finding of facts-not-sustained.

4 [(2)] (3) (i) A petition for expungement of a criminal charge
5 transferred to the juvenile court under § 594A of this article may be filed at any time
6 after:

7 1. [If a petition is not filed under § 3-810 of the Courts
8 Article, the] THE date of the decision not to file a DELINQUENCY petition; or

9 2. [If a petition is filed under § 3-810 of the Courts Article,
10 the] THE decision on [a] THE DELINQUENCY petition of facts-not-sustained.

11 (ii) If a charge transferred under § 594A of this article resulted in
12 [the filing of a petition under § 3-810 of the Courts and Judicial Proceedings Article
13 and the] adjudication of the child as delinquent, the court may grant a petition for
14 expungement on or after the 21st birthday of the petitioner.

15 743.

16 (e) "Criminal history record information" means data initiated or collected by
17 a criminal justice agency on a person pertaining to a reportable event and includes
18 data from an agency that is required to report to the Central Repository under Title
19 12 of the Health - General Article. The term does not include:

20 (2) Data pertaining to a proceeding under [Subtitle 8 of] Title 3,
21 SUBTITLE 8A of the Courts Article [(Juvenile Causes)], but it does include:

22 (i) Data pertaining to a person following waiver of jurisdiction by a
23 juvenile court; and

24 (ii) Information described under § 747(a)(21) and (22) and § 747A of
25 this subtitle;

26 747.

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

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

29 (i) If the child is at least 14 years old, for an act described in [§
30 3-804(e)(1)] § 3-A-03(D)(1) of the Courts [and Judicial Proceedings] Article; and

31 (ii) If the child is at least 16 years old, for an act described in [§
32 3-804(e)(4) or (5)] § 3-8A-03(D)(4) OR (5) of the Courts [and Judicial Proceedings]
33 Article;

1 747A.

2 (c) (1) This subsection applies only to an adjudication of delinquency for a
3 child:

4 (i) Who is at least 14 years old, for an act described in [§
5 3-804(e)(1)] § 3-8A-03(D)(1) of the Courts [and Judicial Proceedings] Article; or

6 (ii) Who is at least 16 years old, for an act described in [§
7 3-804(e)(4) or (5)] § 3-8A-03(D)(4) OR (5) of the Courts [and Judicial Proceedings]
8 Article.

9 750A.

10 (a) Except as provided in subsection (b) of this section, notwithstanding any
11 other provision of this subtitle, no record may be maintained or disseminated in a
12 manner inconsistent with the provisions of [§ 3-828] § 3-827 OR § 3-8A-27 of the
13 Courts [and Judicial Proceedings] Article.

14 (b) Notwithstanding [§ 3-828(a)] § 3-8A-27(A) of the Courts [and Judicial
15 Proceedings] Article, a reportable event described under § 747(a)(21) and (22) of this
16 subtitle and fingerprinting of a child required under § 747A of this subtitle need not
17 be maintained separate and apart from those of adults.

18 763.

19 (d) A District Court commissioner or an intake officer, as defined in [§
20 3-801(o)] § 3-8A-01 of the Courts Article, may, for good cause shown, impose one or
21 more of the conditions described in subsection (b)(1) through (4) of this section as a
22 condition of the pretrial release of a defendant.

23 767.

24 A victim of a delinquent act committed by a juvenile has the rights provided
25 under [§ 3-810] TITLE 3, SUBTITLE 8A of the Courts Article.

26 773.

27 (b) This section applies to [a]:

28 (1) [Criminal] A CRIMINAL trial; and

29 (2) [Juvenile] A JUVENILE delinquency adjudicatory hearing which is
30 conducted in open court or which a victim or representative is entitled to attend under
31 [§ 3-812] § 3-8A-13 of the Courts Article.

32 (f) Nothing in this section may be construed to limit a victim's or
33 representative's right to attend a trial or a juvenile delinquency adjudicatory hearing
34 as provided by [§ 3-812] § 3-8A-13 of the Courts Article or § 857 of this article.

1 781.

2 (e) (1) The State's Attorney shall notify a victim who has filed a notification
3 request form under § 770 of this article of the victim's right to submit a victim impact
4 statement to the court in a waiver hearing under § 594A of this article or under [§
5 3-817] § 3-8A-06 of the Courts Article.

6 (3) The court may consider a victim impact statement in determining
7 whether to waive jurisdiction under § 594A of this article or under [§ 3-817] §
8 3-8A-06 of the Courts Article.

9 805A.

10 (e) "Crime" means an act committed by any person in the State which would
11 constitute:

12 (2) A delinquent act as defined in [§ 3-801] § 3-8A-01 of the Courts
13 Article; or

14 855.

15 (a) (5) "Convicted" means:

16 (ii) Found to have committed a delinquent act in a juvenile
17 proceeding conducted in accordance with Title 3, [Subtitle 8] SUBTITLE 8A of the
18 Courts Article; or

19 (g) A victim of an offense described under this section shall be notified of the
20 provisions of this section by:

21 (3) An intake officer who receives a complaint for the alleged commission
22 of an offense under [§ 3-810] § 3-8A-10 of the Courts Article.

23 **Article 83C - Juvenile Justice**

24 2-101.

25 (b) It is the policy of the State that the Department comply with the provisions
26 of [§ 3-802] § 3-8A-02 of the Courts [and Judicial Proceedings] Article.

27 2-112.

28 Detention, adjudication, disposition, and place and period of commitment in
29 juvenile causes AS TO CHILDREN IN NEED OF SUPERVISION AND DELINQUENT
30 CHILDREN are governed by Title 3, [Subtitle 8] SUBTITLE 8A of the Courts Article.

31 2-118.

32 (b) Subject to the provisions of Title 3, [Subtitle 8] SUBTITLE 8A of the Courts
33 Article, the Department shall:

- 1 (1) Adopt [rules and] regulations that set:
- 2 (i) Policies for admission, transfer, discharge, and aftercare
3 supervision; and
- 4 (ii) Standards of care, including provisions to administer any early,
5 periodic screening diagnosis and treatment program that the Department approves
6 for establishment under Title 42, § 1396d(a)(4)(B) of the United States Code and to
7 treat appropriately any condition that the screening reveals; and
- 8 (2) Order any needed changes in the policy, conduct, or management of a
9 facility to provide adequate care for the children and adequate services to the courts.

10 2-126.

11 (a) If requested by a court sitting as a juvenile court or by any other court in a
12 proceeding that involves the interest of a minor, the Department shall provide the
13 services described in this article.

14 (b) The Department shall provide the employees needed to supply such
15 services as may be required by order of a judge sitting as a juvenile court.

16 (c) The Department shall cooperate with the judges of the juvenile court in
17 carrying out the objectives of this article and Title 3, [Subtitle 8] SUBTITLE 8A of the
18 Courts [and Judicial Proceedings] Article.

19 SECTION 7. AND BE IT FURTHER ENACTED, That this Act does not affect
20 the validity of any proceeding pending on the effective date of this Act and does not
21 affect the release, extinguishment, or alteration, wholly or partly, of any penalty,
22 forfeiture, or liability, whether civil or criminal, which shall have occurred under any
23 statute amended or repealed by this Act and such statute shall be treated as still
24 remaining in force for the purpose of sustaining any and all proper actions for the
25 enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order
26 that can be rendered in such action.

27 SECTION 8. AND BE IT FURTHER ENACTED, That the Committee Notes
28 contained this Act are not law and may not be construed to have been enacted as part
29 of this Act.

30 SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act
31 shall take effect beginning with the fiscal year in which funding for § 3-813(c) of the
32 Courts and Judicial Proceedings Article as enacted by Section 4 of this Act is first
33 enacted as part of the budget for the Office of the Public Defender.

34 SECTION 10. AND BE IT FURTHER ENACTED, That Section 5 of this Act
35 shall take effect beginning with the fiscal year in which funding to offset the county
36 funding is first enacted as part of the budget for the Judicial Branch.

37 SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in
38 Sections 9 and 10 of this Act, this Act shall take effect October 1, 2000.

