

SENATE BILL 592

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2000 Regular Session
01r1747
CF 01r0848

By: **Senator Stone**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Juvenile Court Jurisdiction - Peace Orders**

3 FOR the purpose of transferring jurisdiction over certain peace order proceedings in
4 which the respondent is a child from the District Court to the juvenile court;
5 specifying that the age of the child at the time the alleged act was committed
6 controls the determination of juvenile court jurisdiction over peace order
7 proceedings; requiring that a peace order request be filed in the county where
8 the alleged act occurred, subject to transfer; authorizing the juvenile court to
9 transfer a peace order request under certain circumstances; authorizing an
10 intake officer assigned to the juvenile court by the Department of Juvenile
11 Justice or the State's Attorney to file a peace order request with the juvenile
12 court under certain circumstances; requiring an intake officer to inform certain
13 persons of certain decisions under certain circumstances; authorizing certain
14 persons to submit a certain denial for review by the Department of Juvenile
15 Justice Area Director; authorizing a court to dismiss a peace order request for
16 failure to comply with certain requirements only under certain circumstances;
17 establishing that certain information is inadmissible in evidence in certain
18 proceedings; establishing requirements for the form of a peace order request and
19 general procedures for peace order proceedings; prohibiting a master in Prince
20 George's County from conducting a peace order proceeding; establishing that
21 certain provisions regarding adjudicatory and disposition hearings do not apply
22 to peace order requests or peace order proceedings; authorizing the juvenile
23 court to issue a peace order to protect a victim under certain circumstances;
24 specifying the relief that the juvenile court may include in a peace order;
25 establishing the duration of a peace order; authorizing the juvenile court to
26 impose reasonable court costs against certain individuals; providing for the
27 service of a peace order; authorizing the juvenile court to modify or rescind a
28 peace order under certain circumstances; establishing that a violation of certain
29 provisions of a peace order is a delinquent act; requiring a law enforcement
30 officer to take a child into custody under certain circumstances; establishing
31 that a party is not entitled to the assistance of counsel at a peace order
32 proceeding; making certain conforming changes; clarifying certain language;
33 defining certain terms; altering certain definitions; making certain stylistic
34 changes; and generally relating to juvenile court jurisdiction and peace orders.

35 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings
2 Section 3-801, 3-804(a) and (e), 3-805, 3-808, 3-809, 3-810(c), (d), (e), (f), (g),
3 (h), (i), and (q), 3-811, 3-812, 3-813(a), 3-819, 3-820, 3-821(a), and
4 3-1502
5 Annotated Code of Maryland
6 (1998 Replacement Volume and 1999 Supplement)

7 BY adding to
8 Article - Courts and Judicial Proceedings
9 Section 3-820.1, 3-820.2, 3-820.3, 3-820.4, 3-820.5, and 3-821(f)
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 1999 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article - Courts and Judicial Proceedings
14 Section 3-810(a), (b), (c-1), and (j)
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 4-510
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 1999 Supplement)

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

24 **Article - Courts and Judicial Proceedings**

25 3-801.

26 (a) In this subtitle, the following words have the meanings indicated, unless
27 the context of their use indicates otherwise.

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

31 (c) "Adult" means a person who is 18 years old or older.

32 (d) "Child" means a person under the age of 18 years.

33 (e) "Child in need of assistance" is a child who requires the assistance of the
34 court because:

1 (1) The child is mentally handicapped or is not receiving ordinary and
2 proper care and attention[,]; and

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

8 (f) "Child in need of supervision" is a child who requires guidance, treatment,
9 or rehabilitation and:

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

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

13 (3) Deports himself so as to injure or endanger himself or others; or

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

15 (g) "Citation" means the written form issued by a police officer which serves
16 as the initial pleading against a child for a violation and which is adequate process to
17 give the court jurisdiction over the person cited.

18 (h) "Commit" means to transfer legal custody.

19 (i) "Court" means the circuit court of a county or Baltimore City sitting as the
20 juvenile court. In Montgomery County, it means the District Court sitting as the
21 juvenile court and following the applicable rules of the circuit court.

22 (j) "Custodian" means a person or agency to whom legal custody of a child has
23 been given by order of the court, other than the child's parent or legal guardian.

24 (k) "Delinquent act" means an act which would be a crime if committed by an
25 adult.

26 (l) "Delinquent child" is a child who has committed a delinquent act and
27 requires guidance, treatment, or rehabilitation.

28 (m) "Detention" means the temporary care of children who, pending court
29 disposition, require secure custody for the protection of themselves or the community,
30 in physically restricting facilities.

31 (n) "Disposition hearing" means a hearing to determine:

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

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

1 (o) "Intake officer" means the person assigned to the court by the Department
2 of Juvenile Justice to provide the intake services set forth in this subtitle.

3 (p) "Local department" means the local department of social services for the
4 jurisdiction in which the court is located.

5 (q) "Mentally handicapped child" means a child who is or may be mentally
6 retarded or mentally ill.

7 (r) "Party" includes a child who is the subject of a petition OR A PEACE ORDER
8 REQUEST, the child's parent, guardian, or custodian, the petitioner and an adult who
9 is charged under § 3-831 of this subtitle.

10 (S) "PEACE ORDER PROCEEDING" MEANS A PROCEEDING UNDER § 3-820.2 OR §
11 3-820.4 OF THIS SUBTITLE.

12 (T) "PEACE ORDER REQUEST" MEANS THE INITIAL PLEADING FILED WITH
13 THE COURT UNDER § 3-820.1 OF THIS SUBTITLE.

14 (U) "PETITION" MEANS THE PLEADING FILED WITH THE COURT UNDER § 3-812
15 OF THIS SUBTITLE ALLEGING THAT A CHILD IS A DELINQUENT CHILD, A CHILD IN
16 NEED OF ASSISTANCE, OR A CHILD IN NEED OF SUPERVISION.

17 (V) "RESPONDENT" MEANS THE INDIVIDUAL AGAINST WHOM A PETITION OR A
18 PEACE ORDER REQUEST IS FILED.

19 [(s)] (W) (1) "Shelter care" means the temporary care of children in
20 physically unrestricting facilities.

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

22 [(t)] (X) (1) "Victim" means:

23 (I) [a] person who suffers direct or threatened physical, emotional,
24 or financial harm as a result of a delinquent act; OR

25 (II) AN INDIVIDUAL AGAINST WHOM AN ACT SPECIFIED IN §
26 3-820.1(B) OF THIS SUBTITLE IS COMMITTED OR ALLEGED TO HAVE BEEN
27 COMMITTED.

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

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

32 [(u)] (Y) "Violation" means a violation of § 400, § 400A, § 400B, § 401, or §
33 405A of Article 27 of the Code and § 26-103 of the Education Article for which a
34 citation is issued.

35 [(v)] (Z) "Witness" means any person who is or expects to be a State's witness.

1 3-804.

2 (a) The court has exclusive original jurisdiction over:

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

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

8 (3) EXCEPT AS PROVIDED IN SUBSECTION (E)(6) OF THIS SECTION, A
9 PEACE ORDER PROCEEDING IN WHICH THE RESPONDENT IS A CHILD.

10 (e) The court does not have jurisdiction over:

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

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

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

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

26 (i) Abduction;

27 (ii) Kidnapping;

28 (iii) Second degree murder;

29 (iv) Manslaughter, except involuntary manslaughter;

30 (v) Second degree rape;

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

32 (vii) Second degree sexual offense in violation of Article 27, §
33 464A(a)(1) of the Code;

- 1 (viii) Third degree sexual offense in violation of Article 27, §
2 464B(a)(1) of the Code;
- 3 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
4 446, or § 481C of the Code;
- 5 (x) Using, wearing, carrying, or transporting of firearm during and
6 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 7 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 8 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
9 of the Code;
- 10 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
11 the Code;
- 12 (xiv) Attempted murder in the second degree in violation of Article
13 27, § 411A of the Code;
- 14 (xv) Attempted rape or attempted sexual offense in the second
15 degree under Article 27, § 464F of the Code; or
- 16 (xvi) Attempted robbery with a dangerous or deadly weapon under
17 Article 27, § 488 of the Code; [or]
- 18 (5) A child who previously has been convicted as an adult of a felony and
19 is subsequently alleged to have committed an act that would be a felony if committed
20 by an adult, unless an order removing the proceeding to the court has been filed
21 under Article 27, § 594A of the Code; OR
- 22 (6) A PEACE ORDER PROCEEDING IN WHICH THE VICTIM, AS DEFINED IN
23 § 3-801(X)(1)(II) OF THIS SUBTITLE, IS A PERSON ELIGIBLE FOR RELIEF, AS DEFINED
24 IN § 4-501 OF THE FAMILY LAW ARTICLE.
- 25 3-805.
- 26 (a) If a person is alleged to be delinquent, the age of the person at the time the
27 alleged delinquent act was committed controls the determination of jurisdiction under
28 this subtitle.
- 29 (B) IF A PERSON IS ALLEGED TO HAVE COMMITTED AN ACT UNDER § 3-820.1(B)
30 OF THIS SUBTITLE, THE AGE OF THE PERSON AT THE TIME THE ALLEGED ACT WAS
31 COMMITTED CONTROLS THE DETERMINATION OF JURISDICTION UNDER THIS
32 SUBTITLE.
- 33 [(b)] (C) In all other cases the age of the child at the time the petition is filed
34 controls the determination of jurisdiction under this subtitle.
- 35 [(c)] (D) In a delinquency proceeding there is no presumption of incapacity as
36 a result of infancy for a child who is at least 7 years old.

1 3-808.

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

4 (b) If delinquency or violation of § 3-831 is alleged or if a citation is issued, the
5 petition, if any, or the citation shall be filed in the county where the alleged act
6 occurred subject to transfer as provided in § 3-809.

7 (C) A PEACE ORDER REQUEST SHALL BE FILED IN THE COUNTY WHERE THE
8 ALLEGED ACT OCCURRED SUBJECT TO TRANSFER AS PROVIDED IN § 3-809 OF THIS
9 SUBTITLE.

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

17 3-809.

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

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

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

29 3-810.

30 (a) Except as provided in subsection (b) of this section, the intake officer shall
31 receive:

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

34 (2) Citations issued by a police officer under § 3-835 of this article.

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

- 1 (1) File a petition;
- 2 (2) Authorize the person or agency making the complaint to file a
3 petition; or
- 4 (3) Deny authorization to file the petition.

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

9 (2) An inquiry need not include an interview of the child who is the
10 subject of the complaint if the complaint alleges the commission of [a delinquent] AN
11 act that would be a felony if committed by an adult or alleges a violation of Article 27,
12 § 36B of the Code.

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

15 (i) Authorize the filing of a petition OR A PEACE ORDER REQUEST
16 OR BOTH;

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

18 (iii) Refuse authorization to file a petition OR A PEACE ORDER
19 REQUEST OR BOTH.

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

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

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

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

34 1. File a petition OR A PEACE ORDER REQUEST OR BOTH;

35 2. Refer the complaint to the Department of Juvenile Justice
36 for informal disposition; or

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

4 (d) (1) The intake officer MAY AUTHORIZE THE FILING OF A PETITION OR A
5 PEACE ORDER REQUEST OR BOTH or the local department may authorize the filing of
6 a petition if, based upon the complaint and the inquiry, the intake officer or the local
7 department concludes that the court has jurisdiction over the matter and that judicial
8 action is in the best interests of the public or the child.

9 (2) An inquiry need not include an interview of the child who is the
10 subject of the complaint if the complaint alleges the commission of [a delinquent] AN
11 act that would be a felony if committed by an adult or alleges a violation of Article 27,
12 § 36B of the Code.

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

15 (4) The intake officer or the local department shall inform the following
16 persons of [the] ANY authorization decision SPECIFIED IN PARAGRAPH (1) OF THIS
17 SUBSECTION and the reasons for the decision:

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

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

21 (iii) The victim;

22 (iv) The arresting police officer; and

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

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

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

33 (3) The intake officer [shall] MAY not proceed with an informal
34 adjustment unless the victim, the child, and the child's parent or guardian consent to
35 the informal adjustment procedure.

36 (f) (1) During the informal adjustment process, the child shall be subject to
37 such supervision as the intake officer deems appropriate and if the intake officer

1 decides to have an intake conference, the child and the child's parent or guardian
2 shall appear at the intake conference.

3 (2) The informal adjustment process [shall] MAY not exceed 90 days
4 unless that time is extended by the court.

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

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

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

18 (2) [In that event, through use of the form prescribed by § 3-810.1 of this
19 article,] IF THE INTAKE OFFICER DENIES AUTHORIZATION TO FILE A PETITION OR A
20 PEACE ORDER REQUEST OR BOTH, the intake officer shall inform the following
21 persons of the decision, the reasons for it, and their right of review provided in this
22 section:

23 (i) The victim;

24 (ii) The arresting police officer; and

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

27 (3) THE INTAKE OFFICER SHALL INFORM THE PERSONS SPECIFIED IN
28 PARAGRAPH (2) OF THIS SUBSECTION OF THE DECISION TO DENY AUTHORIZATION
29 TO FILE A PETITION FOR THE ALLEGED COMMISSION OF A DELINQUENT ACT
30 THROUGH USE OF THE FORM PRESCRIBED BY § 3-810.1 OF THIS SUBTITLE.

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

34 (i) The victim;

35 (ii) The arresting police officer; and

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

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

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

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

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

11 (i) (1) If authorization to file a petition for a complaint which alleges a child
12 is in need of supervision OR IF AUTHORIZATION TO FILE A PEACE ORDER REQUEST is
13 denied, the person or agency that filed the complaint or caused it to be filed, within 15
14 days of personal notice of the denial to that person or agency or the mailing to the last
15 known address, may submit the denial for review by the Department of Juvenile
16 Justice Area Director for the area in which the complaint was filed.

17 (2) The Department of Juvenile Justice Area Director shall review the
18 denial.

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

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

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

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

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

33 (q) The court may dismiss a petition OR A PEACE ORDER REQUEST for failure
34 to comply with this section only if the respondent has demonstrated actual prejudice.
35 3-811.

36 (a) A statement made by a participant while counsel and advice are being
37 given, offered, or sought, in the discussions or conferences incident to an informal

1 adjustment may not be admitted in evidence in any adjudicatory hearing OR PEACE
2 ORDER PROCEEDING or in a criminal proceeding against [him] THE PARTICIPANT
3 prior to conviction.

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

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

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

19 3-812.

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

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

35 (C) A PEACE ORDER REQUEST SHALL BE FILED BY THE INTAKE OFFICER IN
36 ACCORDANCE WITH § 3-820.1(B)(1) OF THIS SUBTITLE OR THE STATE'S ATTORNEY IN
37 ACCORDANCE WITH § 3-820.1(B)(2) OF THIS SUBTITLE.

38 [(c)] (D) The form of petitions, PEACE ORDER REQUESTS, and all other
39 pleadings, and except as otherwise provided in this subtitle, the procedures to be
40 followed by the court, shall be as specified in the Maryland Rules.

1 [(d)] (E) The State's Attorney, upon assigning the reasons, may dismiss in
2 open court a petition alleging delinquency.

3 [(e)] (F) (1) The court shall conduct all hearings in an informal manner.

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

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

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

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

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

26 [(f)] (G) The court shall try cases without a jury.

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

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

32 3-813.

33 (a) (1) The judges of a circuit court may not appoint a master for juvenile
34 causes unless the appointment and the appointee are approved by the Chief Judge of
35 the Court of Appeals. The standards expressed in § 3-803 OF THIS SUBTITLE, with
36 respect to the assignment of judges, are applicable to the appointment of masters. A
37 master, at the time of his appointment and thereafter during his service as a master,
38 shall be a member in good standing of the Maryland Bar.

1 (2) (i) In Prince George's County, the judges of the Circuit Court may
2 not appoint or continue the appointment of masters for juvenile causes, except for the
3 purpose of conducting probable cause hearings, detention hearings, arraignments,
4 acceptances of admissions, and restitution hearings in delinquency cases, and shelter
5 care, adjudicatory, and disposition hearings in child in need of assistance cases.

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

7 1. An adjudicatory hearing in delinquency cases, unless the
8 adjudicatory hearing is limited to the acceptance of an admission; [or]

9 2. A disposition hearing in delinquency cases; OR

10 3. A PEACE ORDER PROCEEDING.

11 3-819.

12 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A PEACE ORDER
13 REQUEST OR A PEACE ORDER PROCEEDING.

14 [(a)] (B) After a petition or citation has been filed, and unless jurisdiction has
15 been waived, the court shall hold an adjudicatory hearing.

16 [(b)] (C) (1) Before a child is adjudicated delinquent, the allegations in the
17 petition that the child has committed a delinquent act must be proved beyond a
18 reasonable doubt.

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

21 [(c)] (D) If an adult is charged under this subtitle, the allegations must be
22 proved beyond a reasonable doubt.

23 [(d)] (E) In all other cases the allegations must be proved by a preponderance
24 of the evidence.

25 3-820.

26 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A PEACE ORDER
27 REQUEST OR PEACE ORDER PROCEEDING.

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

31 (2) Except as provided in paragraph (3) of this subsection, the disposition
32 hearing may be held on the same day as the adjudicatory hearing, if notice of the
33 disposition hearing, as prescribed by the Maryland Rules, is waived on the record by
34 all of the parties.

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

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

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

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

9 [(c)] (D) (1) In making a disposition on a petition, the court may:

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

13 (ii) Subject to the provisions of paragraph (2) of this subsection,
14 commit the child to the custody or under the guardianship of the Department of
15 Juvenile Justice, a local department of social services, the Department of Health and
16 Mental Hygiene, or a public or licensed private agency on terms that the court
17 considers appropriate to meet the priorities set forth in § 3-802 of this subtitle,
18 including designation of the type of facility where the child is to be accommodated,
19 until custody or guardianship is terminated with approval of the court or as required
20 under § 3-825 of this subtitle; or

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

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

29 (3) The court shall consider any oral address made in accordance with
30 Article 27, § 780 of the Code or any victim impact statement, as described in Article
31 27, § 781 of the Code, in determining an appropriate disposition on a petition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 2. Impose a civil fine of not more than \$25 for the first
7 violation and a civil fine of not more than \$100 for a second or subsequent violation;
8 or

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

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

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

18 2. For a second or subsequent offense, 1 year or until the
19 person is 21 years old, whichever is longer.

20 (ii) If a child subject to a suspension under this paragraph does not
21 possess the privilege to drive on the date of the disposition, the suspension shall
22 commence:

23 1. If the child is at an age that is eligible to obtain the
24 privilege to drive on the date of the disposition, on the date of the disposition; or

25 2. If the child is younger than an age that is eligible to obtain
26 the privilege to drive on the date of the disposition, on the date the child is eligible to
27 obtain driving privileges.

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

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

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

35 [(h)] (I) The court may not commit a child to the custody of the Department of
36 Health and Mental Hygiene for inpatient care and treatment in a State mental

1 hospital unless the court finds on the record based upon clear and convincing
2 evidence that:

3 (1) The child has a mental disorder;

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

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

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

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

14 (1) The child is mentally retarded;

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

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

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

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

36 (3) Any time after the commitment of the child to a State mental
37 retardation facility if the individualized plan of habilitation developed under § 7-1006
38 of the Health - General Article recommends that a child no longer meets the
39 standards in subsection [(i)] (J) OF THIS SECTION, then the court shall grant a

1 hearing to review the commitment order. The court may grant a hearing at any other
2 time for the purpose of determining if the standard in subsection [(i)] (J) OF THIS
3 SECTION continues to be met.

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

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

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

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

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

17 3-820.1.

18 (A) IN THIS SECTION, AND IN §§ 3-820.2, 3-820.3, AND 3-820.4 OF THIS
19 SUBTITLE, "VICTIM" MEANS AN INDIVIDUAL AGAINST WHOM AN ACT DESCRIBED IN
20 SUBSECTION (B) OF THIS SECTION IS COMMITTED OR ALLEGED TO HAVE BEEN
21 COMMITTED.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
23 AFTER AN INQUIRY CONDUCTED IN ACCORDANCE WITH § 3-810 OF THIS SUBTITLE,
24 AN INTAKE OFFICER MAY FILE WITH THE COURT A PEACE ORDER REQUEST THAT
25 ALLEGES THE COMMISSION OF ANY OF THE FOLLOWING ACTS AGAINST A VICTIM BY
26 THE RESPONDENT, IF THE ACT OCCURRED WITHIN 30 DAYS BEFORE THE FILING OF
27 THE COMPLAINT UNDER § 3-810 OF THIS SUBTITLE:

28 (I) AN ACT THAT CAUSES SERIOUS BODILY HARM;

29 (II) AN ACT THAT PLACES THE VICTIM IN FEAR OF IMMINENT
30 SERIOUS BODILY HARM;

31 (III) ASSAULT IN ANY DEGREE;

32 (IV) RAPE OR SEXUAL OFFENSE, AS DEFINED IN ARTICLE 27, §§ 462
33 THROUGH 464C OF THE CODE OR ATTEMPTED RAPE OR SEXUAL OFFENSE IN ANY
34 DEGREE;

35 (V) FALSE IMPRISONMENT;

1 (VI) HARASSMENT, AS DESCRIBED IN ARTICLE 27, § 123 OF THE
2 CODE;

3 (VII) STALKING, AS DESCRIBED IN ARTICLE 27, § 124 OF THE CODE;

4 (VIII) TRESPASS, AS DESCRIBED IN THE TRESPASS SUBHEADING OF
5 ARTICLE 27 OF THE CODE; OR

6 (IX) MALICIOUS DESTRUCTION OF PROPERTY, AS DESCRIBED IN
7 ARTICLE 27, § 111 OF THE CODE.

8 (2) AFTER A REVIEW CONDUCTED IN ACCORDANCE WITH § 3-810(C)(4)(II)
9 OF THIS SUBTITLE, THE STATE'S ATTORNEY MAY FILE WITH THE COURT A PEACE
10 ORDER REQUEST THAT MEETS THE REQUIREMENTS OF PARAGRAPH (1) OF THIS
11 SUBSECTION.

12 3-820.2.

13 (A) IN THIS SECTION, "RESIDENCE" INCLUDES THE YARD, GROUNDS,
14 OUTBUILDINGS, AND COMMON AREAS SURROUNDING THE RESIDENCE.

15 (B) (1) IF A PEACE ORDER REQUEST IS FILED UNDER § 3-820.1(B) OF THIS
16 SUBTITLE, THE RESPONDENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE
17 QUESTION OF WHETHER THE COURT SHOULD ISSUE A PEACE ORDER.

18 (2) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
19 THE RESPONDENT HAS COMMITTED, AND IS LIKELY TO COMMIT IN THE FUTURE, AN
20 ACT SPECIFIED IN § 3-820.1(B) OF THIS SUBTITLE AGAINST THE VICTIM, OR IF THE
21 RESPONDENT CONSENTS TO THE ENTRY OF A PEACE ORDER, THE COURT MAY ISSUE
22 A PEACE ORDER TO PROTECT THE VICTIM.

23 (C) (1) THE PEACE ORDER MAY INCLUDE ANY OR ALL OF THE FOLLOWING
24 RELIEF:

25 (I) ORDER THE RESPONDENT TO REFRAIN FROM COMMITTING OR
26 THREATENING TO COMMIT AN ACT SPECIFIED IN § 3-820.1(B) OF THIS SUBTITLE
27 AGAINST THE VICTIM;

28 (II) ORDER THE RESPONDENT TO REFRAIN FROM CONTACTING,
29 ATTEMPTING TO CONTACT, OR HARASSING THE VICTIM;

30 (III) ORDER THE RESPONDENT TO REFRAIN FROM ENTERING THE
31 RESIDENCE OF THE VICTIM;

32 (IV) ORDER THE RESPONDENT TO REMAIN AWAY FROM THE PLACE
33 OF EMPLOYMENT, SCHOOL, OR TEMPORARY RESIDENCE OF THE VICTIM; AND

34 (V) DIRECT THE RESPONDENT OR THE VICTIM TO PARTICIPATE IN
35 PROFESSIONALLY SUPERVISED COUNSELING.

1 (2) IF THE COURT ISSUES AN ORDER UNDER THIS SECTION, THE ORDER
2 SHALL CONTAIN ONLY THE RELIEF THAT IS MINIMALLY NECESSARY TO PROTECT
3 THE VICTIM.

4 (3) ALL RELIEF GRANTED IN A PEACE ORDER SHALL BE EFFECTIVE FOR
5 THE PERIOD STATED IN THE ORDER, NOT TO EXCEED 6 MONTHS.

6 (4) IF THE COURT ISSUES AN ORDER UNDER THIS SECTION, THE COURT
7 MAY IMPOSE REASONABLE COURT COSTS AGAINST A RESPONDENT, OR THE
8 RESPONDENT'S PARENT, GUARDIAN, OR CUSTODIAN.

9 3-820.3.

10 (A) A COPY OF THE PEACE ORDER SHALL BE SERVED ON THE VICTIM, THE
11 RESPONDENT, THE APPROPRIATE LAW ENFORCEMENT AGENCY, AND ANY OTHER
12 PERSON THE COURT DETERMINES IS APPROPRIATE, IN OPEN COURT OR, IF THE
13 PERSON IS NOT PRESENT AT THE PEACE ORDER HEARING, BY FIRST-CLASS MAIL TO
14 THE PERSON'S LAST KNOWN ADDRESS.

15 (B) (1) A COPY OF THE PEACE ORDER SERVED ON THE RESPONDENT IN
16 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION CONSTITUTES ACTUAL
17 NOTICE TO THE RESPONDENT OF THE CONTENTS OF THE PEACE ORDER.

18 (2) SERVICE IS COMPLETE UPON MAILING.

19 3-820.4.

20 THE COURT MAY MODIFY OR RESCIND THE PEACE ORDER DURING THE TERM
21 OF THE PEACE ORDER AFTER:

22 (1) GIVING NOTICE TO THE VICTIM AND THE RESPONDENT; AND

23 (2) A HEARING.

24 3-820.5.

25 (A) A VIOLATION OF ANY OF THE PROVISIONS OF A PEACE ORDER SPECIFIED
26 IN § 3-820.2(C)(1)(I), (II), (III), OR (IV) OF THIS SUBTITLE IS A DELINQUENT ACT.

27 (B) A LAW ENFORCEMENT OFFICER SHALL TAKE INTO CUSTODY A CHILD
28 WHOM THE OFFICER HAS PROBABLE CAUSE TO BELIEVE IS IN VIOLATION OF A
29 PEACE ORDER IN EFFECT AT THE TIME OF THE VIOLATION.

30 3-821.

31 (a) Except as provided in subsections [(b) and (c)] (B), (C), AND (F) of this
32 section, a party is entitled to the assistance of counsel at every stage of any
33 proceeding under this subtitle.

34 (F) A PARTY IS NOT ENTITLED TO THE ASSISTANCE OF COUNSEL AT A PEACE
35 ORDER PROCEEDING.

1 3-1502.

2 (a) [Except as provided in subsection (b) of this section, by] BY proceeding
3 under this subtitle, a petitioner is not limited to or precluded from pursuing any other
4 legal remedy.

5 (b) This subtitle does not apply to:

6 (1) [an individual who is entitled to petition for relief from abuse under
7 Title 4, Subtitle 5] A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 of the
8 Family Law Article; OR

9 (2) A RESPONDENT WHO IS A CHILD AT THE TIME OF THE ALLEGED
10 COMMISSION OF AN ACT SPECIFIED IN § 3-1503(A) OF THIS SUBTITLE.

11 **Article - Family Law**

12 4-510.

13 (a) Except as provided in subsection (b) of this section, by proceeding under
14 this subtitle, a petitioner, including a petitioner who acts on behalf of a child or
15 vulnerable adult, is not limited to or precluded from pursuing any other legal remedy.

16 (b) [An individual who is eligible to petition for relief under] A PERSON
17 ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 OF this [subtitle] SUBTITLE, may not
18 petition for relief under Title 3, SUBTITLE 8 OR Subtitle 15 of the Courts Article.

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