

SENATE BILL 821

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2000 Regular Session
Olr2980
CF HB 1082

By: **Senator Green**

Introduced and read first time: February 17, 2000

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Justice - Detention Facilities and Nonsecure**
3 **Placement Alternatives**

4 FOR the purpose of requiring the Department of Juvenile Justice to adopt certain
5 regulations regarding juvenile detention standards and nonsecure placement
6 alternatives; requiring the Department to develop a code of conduct; requiring
7 the Department to terminate its contract with certain private agencies under
8 certain circumstances; requiring certain facilities to conform to certain
9 standards; requiring community participation in the selection of a location for a
10 residential facility; requiring certain group homes and institutions to comply
11 with certain juvenile detention standards; requiring the Department to make
12 certain considerations before placing a certain child in a certain facility;
13 providing for the purposes of juvenile detention standards; requiring the
14 Department to develop certain nonsecure alternatives for the placement of
15 certain children; altering the purposes of the Juvenile Causes Subtitle to
16 provide for certain children in juvenile detention; and generally relating to the
17 Department of Juvenile Justice and juvenile detention standards and nonsecure
18 placement alternatives.

19 BY repealing and reenacting, with amendments,
20 Article 83C - Juvenile Justice
21 Section 2-118, 2-120, and 2-125
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

24 BY adding to
25 Article 83C - Juvenile Justice
26 Section 2-103(c)(7), 2-134, 2-135, and 2-136
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 1999 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - Courts and Judicial Proceedings
31 Section 3-802(a)

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 1999 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Courts and Judicial Proceedings
5 Section 3-820(b) and (c)(1) and (2)
6 Annotated Code of Maryland
7 (1998 Replacement Volume and 1999 Supplement)

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

10 **Article 83C - Juvenile Justice**

11 2-103.

12 (c) (7) (I) THE DEPARTMENT SHALL DEVELOP A CODE OF CONDUCT.

13 (II) THE CODE OF CONDUCT SHALL BE GIVEN TO ALL PERSONNEL
14 OF THE DEPARTMENT AND TO STAFF WORKING IN PRIVATE AGENCIES UNDER
15 CONTRACT WITH THE DEPARTMENT.

16 (III) IF PRIVATE AGENCY STAFF ARE NOT ABLE TO MEET THE
17 STANDARDS OF THE CODE OF CONDUCT, THE DEPARTMENT SHALL TERMINATE THE
18 DEPARTMENT'S CONTRACT WITH THE AGENCY IN ACCORDANCE WITH STATE
19 PROCUREMENT LAW.

20 2-118.

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

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

25 (1) Adopt rules and regulations that set:

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

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

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

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

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

6 (2) Prohibit abuse of a child.

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

9 (e) The Department shall [develop and provide within] ADOPT REGULATIONS
10 THAT REQUIRE each facility TO PROVIDE:

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

13 (2) Alcohol abuse and drug abuse assessment services; [and]

14 (3) Either alcohol abuse and drug abuse referral services or an alcohol
15 abuse and drug abuse treatment program that has been certified in accordance with
16 the requirements of Title 8 of the Health - General Article; AND

17 (4) PROGRAMS THAT ENSURE A SAFE, HUMANE, AND CARING
18 ENVIRONMENT.

19 (F) THE DEPARTMENT SHALL SELECT THE LOCATION FOR A RESIDENTIAL
20 FACILITY WITH PARTICIPATION FROM THE COMMUNITY IN WHICH THE FACILITY IS
21 TO BE LOCATED.

22 2-120.

23 (a) The Department shall provide for care, diagnosis, training, education, and
24 rehabilitation of children by placing them in group homes and institutions that are
25 operated by any nonprofit or for-profit entity.

26 (b) (1) The Department shall reimburse these entities for the cost of these
27 services at appropriate monthly rates that the Department determines, as provided in
28 the State budget.

29 (2) The reimbursement rate may differ between homes and institutions
30 that provide intermediate services, as defined by the Department, and homes and
31 institutions that provide full services.

32 (c) The Department may not place a child in a group home or other residential
33 facility that is not operating in compliance with applicable State licensing laws.

34 (D) THE JUVENILE DETENTION STANDARDS ADOPTED BY THE DEPARTMENT
35 UNDER § 2-135 OF THIS TITLE SHALL APPLY TO ANY GROUP HOME OR INSTITUTION
36 DESCRIBED IN THIS SECTION.

1 2-125.

2 (a) The General Assembly intends that:

3 (1) All children whose care is the responsibility of this State shall have
4 similar protection for their health, their safety, and the quality of their care; and

5 (2) The rules and regulations of agencies that are charged with child care
6 shall be [comparable] STANDARDIZED.

7 (b) The Department shall adopt rules and regulations to carry out §§ 2-123
8 and 2-124 of this article.

9 (c) (1) A child care home or institution may not be required to obtain a
10 license from more than 1 State agency.

11 (2) Any State agency authorized to license child care homes or
12 institutions may make cooperative arrangements with any other State agency to this
13 end.

14 2-134.

15 IF A CHILD IS COMMITTED TO THE CUSTODY OR UNDER THE GUARDIANSHIP OF
16 THE DEPARTMENT UNDER § 3-820 OF THE COURTS ARTICLE, UNLESS OTHERWISE
17 ORDERED BY THE COURT, THE DEPARTMENT SHALL CONSIDER PLACEMENT IN A
18 NONSECURE ALTERNATIVE BEFORE PLACEMENT IN A SECURE FACILITY.

19 2-135.

20 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE
21 STANDARDS FOR JUVENILE DETENTION FACILITIES OPERATED BY THE
22 DEPARTMENT AND PRIVATE AGENCIES UNDER CONTRACT WITH THE DEPARTMENT.

23 (B) THE STANDARDS SHALL REFLECT THE CENTRAL PURPOSES OF JUVENILE
24 DETENTION, WHICH ARE TO:

25 (1) PROTECT THE PUBLIC;

26 (2) PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR
27 CHILDREN; AND

28 (3) PROVIDE ACCESS TO REQUIRED SERVICES FOR CHILDREN.

29 (C) THE STANDARDS SHALL BE CONSISTENT WITH THIS ARTICLE AND TITLE 3,
30 SUBTITLE 8 OF THE COURTS ARTICLE.

31 (D) THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

32 (1) CRITERIA FOR THE PLACEMENT OF A CHILD IN A PARTICULAR
33 JUVENILE DETENTION FACILITY;

1 (2) POPULATION LIMITS FOR EACH JUVENILE DETENTION FACILITY;

2 (3) SPECIFICATIONS FOR THE ARCHITECTURAL STRUCTURE OF A
3 JUVENILE DETENTION FACILITY;

4 (4) STAFF QUALIFICATIONS, TRAINING, AND THE RATIO OF STAFF TO
5 CHILDREN IN A JUVENILE DETENTION FACILITY;

6 (5) PROVISIONS REGARDING THE RIGHTS OF CHILDREN IN A JUVENILE
7 DETENTION FACILITY, INCLUDING THE RIGHT TO PRIVACY, VISITORS, TELEPHONE
8 USE, AND MAIL DELIVERY;

9 (6) PROHIBITIONS AGAINST THE USE OF FORCE AGAINST A CHILD;

10 (7) ADVOCACY REVIEW BOARDS TO REVIEW ALL DISCIPLINARY ACTIONS
11 AND GRIEVANCES; AND

12 (8) MONITORING PROCESSES TO MONITOR THE VARIOUS COMPONENTS
13 OF THE JUVENILE JUSTICE SYSTEM.

14 2-136.

15 (A) THE DEPARTMENT SHALL DEVELOP NONSECURE ALTERNATIVES FOR THE
16 PLACEMENT OF A CHILD COMMITTED UNDER § 3-820 OF THE COURTS ARTICLE.

17 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE
18 STANDARDS FOR THE NONSECURE ALTERNATIVES DEVELOPED UNDER SUBSECTION
19 (A) OF THIS SECTION.

20 **Article - Courts and Judicial Proceedings**

21 3-802.

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;

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

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

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

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

14 (7) TO PROVIDE TO CHILDREN IN JUVENILE DETENTION:

15 (I) A SAFE, HUMANE, AND CARING ENVIRONMENT; AND

16 (II) ACCESS TO REQUIRED SERVICES; AND

17 (8) To provide judicial procedures for carrying out the provisions of this
18 subtitle.

19 3-820.

20 (b) The priorities in making a disposition are consistent with the purposes
21 specified in § 3-802 of this subtitle.

22 (c) (1) In making a disposition on a petition, the court may:

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

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2000.