

SENATE BILL 821

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2000 Regular Session
0lr2980
CF HB 1082

By: **Senator Green**

Introduced and read first time: February 17, 2000

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 18, 2000

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2000

CHAPTER _____

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

21 BY repealing and reenacting, with amendments,
22 Article 83C - Juvenile Justice
23 Section 2-118, ~~2-120, and 2-125~~
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 1999 Supplement)

1 BY adding to
 2 Article 83C - Juvenile Justice
 3 Section ~~2-103(e)(7), 2-134, 2-135, and 2-136~~ 2-134 and 2-135
 4 Annotated Code of Maryland
 5 (1998 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Courts and Judicial Proceedings
 8 Section 3-802(a)
 9 Annotated Code of Maryland
 10 (1998 Replacement Volume and 1999 Supplement)

11 BY repealing and reenacting, without amendments,
 12 Article - Courts and Judicial Proceedings
 13 Section 3-820(b) and (c)(1) and (2)
 14 Annotated Code of Maryland
 15 (1998 Replacement Volume and 1999 Supplement)

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

18 **Article 83C - Juvenile Justice**

19 ~~2-103.~~

20 ~~(e) (7) (f) THE DEPARTMENT SHALL DEVELOP A CODE OF CONDUCT.~~

21 ~~(H) THE CODE OF CONDUCT SHALL BE GIVEN TO ALL PERSONNEL~~
 22 ~~OF THE DEPARTMENT AND TO STAFF WORKING IN PRIVATE AGENCIES UNDER~~
 23 ~~CONTRACT WITH THE DEPARTMENT.~~

24 ~~(III) IF PRIVATE AGENCY STAFF ARE NOT ABLE TO MEET THE~~
 25 ~~STANDARDS OF THE CODE OF CONDUCT, THE DEPARTMENT SHALL TERMINATE THE~~
 26 ~~DEPARTMENT'S CONTRACT WITH THE AGENCY IN ACCORDANCE WITH STATE~~
 27 ~~PROCUREMENT LAW.~~

28 2-118.

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

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

33 (1) Adopt rules and regulations that set:

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

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

7 (III) STANDARDS OF CONDUCT FOR ALL EMPLOYEES OF THE
8 DEPARTMENT; AND

9 (IV) STANDARDS FOR DETENTION OF INDIVIDUALS UNDER THE
10 SUPERVISION OF THE DEPARTMENT; AND

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

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

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

18 (2) Prohibit abuse of a child.

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

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

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

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

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

29 (4) **PROGRAMS THAT ENSURE A SAFE, HUMANE, AND CARING**
30 **ENVIRONMENT.**

31 ~~(F) THE DEPARTMENT SHALL SELECT THE LOCATION FOR A RESIDENTIAL~~
32 ~~FACILITY WITH PARTICIPATION FROM THE COMMUNITY IN WHICH THE FACILITY IS~~
33 ~~TO BE LOCATED.~~

1 ~~2-120.~~

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

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

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

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

13 (d) ~~THE JUVENILE DETENTION STANDARDS ADOPTED BY THE DEPARTMENT~~
14 ~~UNDER § 2-135 OF THIS TITLE SHALL APPLY TO ANY GROUP HOME OR INSTITUTION~~
15 ~~DESCRIBED IN THIS SECTION.~~

16 ~~2-125.~~

17 (a) The General Assembly intends that:

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

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

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

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

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

29 ~~2-134.~~

30 ~~IF A CHILD IS COMMITTED TO THE CUSTODY OR UNDER THE GUARDIANSHIP OF~~
31 ~~THE DEPARTMENT UNDER § 3-820 OF THE COURTS ARTICLE, UNLESS OTHERWISE~~
32 ~~ORDERED BY THE COURT, THE DEPARTMENT SHALL CONSIDER PLACEMENT IN A~~
33 ~~NONSECURE ALTERNATIVE BEFORE PLACEMENT IN A SECURE FACILITY.~~

1 ~~2-135; 2-134.~~

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

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

7 (1) PROTECT THE PUBLIC;

8 (2) PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR
9 CHILDREN; AND

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

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

13 (D) THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

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

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

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

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

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

24 (6) PROHIBITIONS AGAINST THE USE OF EXCESSIVE FORCE AGAINST A
25 CHILD;

26 (7) ADVOCACY REVIEW BOARDS TO REVIEW ALL ~~DISCIPLINARY ACTIONS~~
27 ~~AND~~ CHILD GRIEVANCES; AND

28 (8) MONITORING PROCESSES TO MONITOR THE VARIOUS COMPONENTS
29 OF THE JUVENILE JUSTICE SYSTEM.

30 ~~2-136; 2-135.~~

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

1 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE
 2 STANDARDS FOR THE NONSECURE ALTERNATIVES DEVELOPED UNDER SUBSECTION
 3 (A) OF THIS SECTION.

4 **Article - Courts and Judicial Proceedings**

5 3-802.

6 (a) The purposes of this subtitle are:

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

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

10 (ii) Accountability of the child to the victim and the community for
 11 offenses committed; and

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

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

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

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

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

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

29 (7) TO PROVIDE TO CHILDREN IN JUVENILE DETENTION STATE CARE
 30 AND CUSTODY:

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

32 (II) ACCESS TO REQUIRED SERVICES; AND

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

1 3-820.

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

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

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

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

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

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 ~~July~~ October 1, 2000.