
By: **Delegates Dembrow and Montague**
Introduced and read first time: January 12, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the jurisdiction of the juvenile court to include
4 proceedings involving certain children alleged to have committed certain acts;
5 repealing provisions of law authorizing a court exercising criminal jurisdiction
6 to transfer jurisdiction to the juvenile court under certain circumstances;
7 altering certain time frames for conducting certain hearings; altering certain
8 procedures for waiver of juvenile court jurisdiction; establishing a certain
9 rebuttable presumption; making certain conforming changes; providing for the
10 application of this Act; and generally relating to the jurisdiction of the juvenile
11 court.

12 BY repealing

13 Article - Criminal Procedure

14 Section 4-202

15 Annotated Code of Maryland

16 (As enacted by Chapter _____ (S.B. _____/H.B. _____) (11r0739) of the Acts of the
17 General Assembly of 2001)

18 BY repealing and reenacting, without amendments,

19 Article - Criminal Procedure

20 Section 10-213

21 Annotated Code of Maryland

22 (As enacted by Chapter _____ (S.B. _____/H.B. _____) (11r0739) of the Acts of the
23 General Assembly of 2001)

24 BY repealing and reenacting, with amendments,

25 Article - Criminal Procedure

26 Section 10-215(a)(21) and 10-216(e)

27 Annotated Code of Maryland

28 (As enacted by Chapter _____ (S.B. _____/H.B. _____) (11r0739) of the Acts of the
29 General Assembly of 2001)

1 BY repealing and reenacting, with amendments,
2 Article - Courts and Judicial Proceedings
3 Section 3-804, 3-815(d), and 3-817
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2000 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Courts and Judicial Proceedings
8 Section 3-815(a) and (b)
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article - Education
13 Section 7-303(a)(1) and (b)
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Education
18 Section 7-303(a)(5)
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2000 Supplement)

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

23 **Article - Criminal Procedure**

24 [4-202.

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

26 (2) "Victim" has the meaning stated in § 11-104 of this article.

27 (3) "Victim's representative" has the meaning stated in § 11-104 of this
28 article.

29 (b) Except as provided in subsection (c) of this section, a court exercising
30 jurisdiction in a case involving a child may transfer the case to the juvenile court if:

31 (1) the accused child was at least 14 but not 18 years of age when the
32 alleged crime was committed;

33 (2) the alleged crime is excluded from the jurisdiction of the juvenile
34 court under § 3-804(e)(1), (4), or (5) of the Courts Article; and

1 (3) the court believes that a transfer of its jurisdiction is in the interest of
2 the child or society.

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

5 (1) the child previously has been transferred to juvenile court and
6 adjudicated delinquent;

7 (2) the child was convicted in an unrelated case excluded from the
8 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts Article; or

9 (3) the alleged crime is murder in the first degree and the accused child
10 was 16 or 17 years of age when the alleged crime was committed.

11 (d) In determining whether to transfer jurisdiction under this section, the
12 court shall consider:

13 (1) the age of the child;

14 (2) the mental and physical condition of the child;

15 (3) the amenability of the child to treatment in an institution, facility, or
16 program available to delinquent children;

17 (4) the nature of the alleged crime; and

18 (5) the public safety.

19 (e) In making a determination under this section, the court may request that
20 a study be made concerning the child, the family of the child, the environment of the
21 child, and other matters concerning the disposition of the case.

22 (f) If the court transfers its jurisdiction under this section, the court may
23 order the child held for an adjudicatory hearing under the regular procedure of the
24 juvenile court.

25 (g) Pending a determination under this section to waive its jurisdiction, the
26 court may order a child to be held in a juvenile facility.

27 (h) (1) A victim or victim's representative shall be given notice of the
28 transfer hearing as provided under § 11-104 of this article.

29 (2) (i) A victim or victim's representative may submit a victim impact
30 statement to the court as provided in § 11-402 of this article.

31 (ii) This paragraph does not preclude a victim or victim's
32 representative who has not filed a notification request form under § 11-104 of this
33 article from submitting a victim impact statement to the court.

1 (iii) The court may consider a victim impact statement in
2 determining whether to transfer jurisdiction under this section.]

3 10-213.

4 (a) There is a Criminal Justice Information System Central Repository in the
5 Department.

6 (b) The Secretary:

7 (1) has administrative control of the Central Repository; and

8 (2) shall operate the Central Repository with the advice of the Advisory
9 Board.

10 10-215.

11 (a) The following events are reportable events under this subtitle that must be
12 reported to the Central Repository in accordance with § 10-214 of this subtitle:

13 (21) an adjudication of a child as delinquent[:

14 (i) if the child is at least 14 years old,] for an act described in [§
15 3-804(e)(1)] § 3-817(D)(2) of the Courts Article]; or

16 (ii) if the child is at least 16 years old, for an act described in §
17 3-804(e)(4) or (5) of the Courts Article];

18 10-216.

19 (e) (1) This subsection only applies to an adjudication of delinquency of a
20 child[:

21 (i) for an act described in [§ 3-804(e)(1)]§ 3-817(D)(2) of the Courts
22 Article [if the child is at least 14 years old; or

23 (ii) for an act described in § 3-804(e)(4) or (5) of the Courts Article if
24 the child is at least 16 years old].

25 (2) If a child has not been previously fingerprinted as a result of arrest
26 for the delinquent act, the court that held the disposition hearing of the child
27 adjudicated delinquent shall order the child to be fingerprinted by the appropriate
28 and available law enforcement unit.

29 (3) If the child cannot be fingerprinted at the time of the disposition
30 hearing held under paragraph (2) of this subsection, the court shall order the child to
31 report to a designated law enforcement unit to be fingerprinted within 3 days after
32 making a disposition on an adjudication of delinquency.

1 **Article - Courts and Judicial Proceedings**

2 3-804.

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

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

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

9 (3) Except as provided in subsection [(e)(6)] (E)(3) of this section, a peace
10 order proceeding in which the respondent is a child.

11 (b) The court has exclusive original jurisdiction over proceedings arising
12 under the Interstate Compact on Juveniles.

13 (c) The court has concurrent jurisdiction over proceedings against an adult for
14 the violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction
15 under this subsection upon its own motion or upon the motion of any party to the
16 proceeding, if charges against the adult arising from the same incident are pending in
17 the criminal court. Upon motion by either the State's Attorney or the adult charged
18 under § 3-831, the court shall waive its jurisdiction, and the adult shall be tried in the
19 criminal court according to the usual criminal procedure.

20 (d) The jurisdiction of the court is concurrent with that of the District Court in
21 any criminal case arising under the compulsory public school attendance laws of this
22 State.

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

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

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

32 [(3)] (2) A child at least 16 years old alleged to have done an act in
33 violation of any provision of law, rule, or regulation governing the use or operation of
34 a boat, except an act that prescribes a penalty of incarceration; OR

35 [(4) A child at least 16 years old alleged to have committed any of the
36 following crimes, as well as all other charges against the child arising out of the same

1 incident, unless an order removing the proceeding to the court has been filed under
2 Article 27, § 594A of the Code:

- 3 (i) Abduction;
- 4 (ii) Kidnapping;
- 5 (iii) Second degree murder;
- 6 (iv) Manslaughter, except involuntary manslaughter;
- 7 (v) Second degree rape;
- 8 (vi) Robbery under Article 27, § 487 of the Code;
- 9 (vii) Second degree sexual offense in violation of Article 27, §
10 464A(a)(1) of the Code;
- 11 (viii) Third degree sexual offense in violation of Article 27, §
12 464B(a)(1) of the Code;
- 13 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
14 446, or § 481C of the Code;
- 15 (x) Using, wearing, carrying, or transporting of firearm during and
16 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 17 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 18 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
19 of the Code;
- 20 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
21 the Code;
- 22 (xiv) Attempted murder in the second degree in violation of Article
23 27, § 411A of the Code;
- 24 (xv) Attempted rape or attempted sexual offense in the second
25 degree under Article 27, § 464F of the Code; or
- 26 (xvi) Attempted robbery under Article 27, § 487 of the Code;
- 27 (5) A child who previously has been convicted as an adult of a felony and
28 is subsequently alleged to have committed an act that would be a felony if committed
29 by an adult, unless an order removing the proceeding to the court has been filed
30 under Article 27, § 594A of the Code; or]
- 31 [(6)] (3) A peace order proceeding in which the victim, as defined in §
32 3-801(x)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of
33 the Family Law Article.

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

6 3-815.

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

11 (b) If a child is taken into custody, the child may be placed in detention prior to
12 a hearing if:

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

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

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

19 (d) (1) If the child is not released, the intake officer or the official who
20 authorized detention or shelter care shall immediately file a petition to authorize
21 continued detention or shelter care.

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

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

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

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

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

1 (7) (i) ANY WAIVER HEARING SHALL BE HELD NO LATER THAN 15
2 DAYS AFTER THE DATE A PETITION FOR DETENTION IS GRANTED.

3 (II) An adjudicatory [or waiver] hearing shall be held no later than
4 30 days after the date a petition for detention is granted.

5 [(ii)] (III) If a child is detained after an adjudicatory hearing, a
6 disposition hearing shall be held no later than 14 days after the adjudicatory hearing.

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

10 1. For the protection of the child; or

11 2. For the protection of the community.

12 3-817.

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

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

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

19 (b) (1) The court may not waive its jurisdiction until after it has conducted a
20 waiver hearing, held prior to an adjudicatory hearing and after notice has been given
21 to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to
22 determine whether the court should waive its jurisdiction.

23 (2) IF A CHILD IS IN DETENTION UNDER § 3-815 OF THIS SUBTITLE, THE
24 COURT SHALL HOLD ANY WAIVER HEARING NO LATER THAN 15 DAYS AFTER THE
25 DATE A PETITION FOR DETENTION IS GRANTED.

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

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

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

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

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

4 (2) THERE IS A REBUTTABLE PRESUMPTION THAT THE CHILD IS AN
5 UNFIT SUBJECT FOR JUVENILE REHABILITATIVE MEASURES IF THE CHILD:

6 (I) IS AT LEAST 14 YEARS OLD AND IS ALLEGED TO HAVE
7 COMMITTED AN ACT WHICH, IF COMMITTED BY AN ADULT, WOULD BE A CRIME
8 PUNISHABLE BY DEATH OR LIFE IMPRISONMENT;

9 (II) IS AT LEAST 16 YEARS OLD AND IS ALLEGED TO HAVE
10 COMMITTED ANY OF THE FOLLOWING CRIMES:

- 11 1. ABDUCTION;
- 12 2. KIDNAPPING;
- 13 3. SECOND DEGREE MURDER;
- 14 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
15 MANSLAUGHTER;
- 16 5. SECOND DEGREE RAPE;
- 17 6. ROBBERY UNDER ARTICLE 27, § 487 OF THE CODE;
- 18 7. SECOND DEGREE SEXUAL OFFENSE IN VIOLATION OF
19 ARTICLE 27, § 464A(A)(1) OF THE CODE;
- 20 8. THIRD DEGREE SEXUAL OFFENSE IN VIOLATION OF
21 ARTICLE 27, § 464B(A)(1) OF THE CODE;
- 22 9. A CRIME IN VIOLATION OF ARTICLE 27, § 36B, § 373, § 374, §
23 445, § 446, OR § 481C OF THE CODE;
- 24 10. USING, WEARING, CARRYING, OR TRANSPORTING OF
25 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME IN VIOLATION
26 OF ARTICLE 27, § 281A OF THE CODE;
- 27 11. USE OF A FIREARM IN VIOLATION OF ARTICLE 27, § 291A
28 OF THE CODE;
- 29 12. CARJACKING OR ARMED CARJACKING IN VIOLATION OF
30 ARTICLE 27, § 348A OF THE CODE;
- 31 13. ASSAULT IN THE FIRST DEGREE IN VIOLATION OF
32 ARTICLE 27, § 12A-1 OF THE CODE;
- 33 14. ATTEMPTED MURDER IN THE SECOND DEGREE IN
34 VIOLATION OF ARTICLE 27, § 411A OF THE CODE;

1 15. ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN
2 THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE; OR

3 16. ATTEMPTED ROBBERY UNDER ARTICLE 27, § 487 OF THE
4 CODE; OR

5 (III) PREVIOUSLY HAS BEEN CONVICTED AS AN ADULT OF A FELONY
6 AND IS ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD BE A FELONY IF
7 COMMITTED BY AN ADULT.

8 [(2)] (3) For purposes of determining whether to waive its jurisdiction,
9 the court shall assume that the child committed the delinquent act alleged.

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

12 (1) Age of the child;

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

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

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

18 (5) The public safety.

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

24 (g) An order waiving jurisdiction is interlocutory.

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

29 **Article - Education**

30 7-303.

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

32 (5) "Reportable offense" means:

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

- 1 (ii) Any of the offenses enumerated in [§ 3-804(e)(4)] § 3-817(D)(2)
2 of the Courts Article;
- 3 (iii) A violation of Article 27, § 36, § 36A, or § 36B of the Code;
- 4 (iv) A violation of Article 27, § 286, § 286A, § 286B, § 286C, or §
5 286D of the Code; or
- 6 (v) A violation of Article 27, § 139C, § 151A, or § 151C of the Code.

7 (b) If a child enrolled in the public school system is arrested for a reportable
8 offense, the law enforcement agency making the arrest shall notify the local
9 superintendent of the arrest and the charges within 24 hours of the arrest or as soon
10 as practicable.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
12 construed only prospectively and may not be applied or interpreted to have any effect
13 on or application to any offenses that were committed before the effective date of this
14 Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2001.