

SENATE BILL 353

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E3

2001 Regular Session
(11r0771)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Jimeno, Hughes, and Ferguson (Commission on
Juvenile Justice Jurisdiction)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law - Detained Juvenile Defendants - Transfer of Cases to**
3 **Juvenile Court**

4 FOR the purpose of requiring the court that has criminal jurisdiction over a case
5 involving a child who is alleged to have committed an offense excluded from the
6 jurisdiction of the juvenile court to make a determination as to whether to
7 transfer the case to the juvenile court within a certain time period; requiring
8 that a hearing on a motion requesting that a child be held in a secure juvenile
9 facility pending a transfer determination be held within a certain time period;
10 requiring the court that has criminal jurisdiction to consider a victim impact
11 statement in determining whether to transfer jurisdiction to the juvenile court;
12 authorizing the District Court to order that a certain study be made or that a
13 child be held in a secure juvenile facility under certain circumstances; requiring
14 the District Court to take certain actions ~~if the District Court determines at a~~
15 ~~bail review hearing that a child shall remain in custody~~ if a child remains in
16 custody for any reason after a bail review hearing; requiring a circuit court to

1 take certain actions on receipt of a District Court case file indicating that the
 2 case involves a ~~detained~~ child *who was detained after a bail review hearing*;
 3 clarifying language; defining a certain term; providing for the application of this
 4 Act; and generally relating to procedures involving certain detained juvenile
 5 defendants and the transfer of cases from criminal court to juvenile court.

6 BY repealing and reenacting, with amendments,
 7 Article - Criminal Procedure
 8 Section 4-202
 9 Annotated Code of Maryland
 10 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of 2001)

11 BY adding to
 12 Article - Criminal Procedure
 13 Section 4-202.1
 14 Annotated Code of Maryland
 15 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of 2001)

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

18 **Article - Criminal Procedure**

19 4-202.

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) the age of the child;

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

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

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

14 (5) the public safety.

15 (e) ~~(f)~~ In making a determination under this section, the court may
16 [request] ORDER that a study be made concerning the child, the family of the child,
17 the environment of the child, and other matters concerning the disposition of the case.

18 ~~(2) THE COURT SHALL ORDER THAT A STUDY BE MADE IF REQUIRED~~
19 ~~UNDER THE PROVISIONS OF § 4-202.1 OF THIS SUBTITLE.~~

20 (F) THE COURT SHALL MAKE A TRANSFER DETERMINATION WITHIN 10 DAYS
21 AFTER THE DATE OF A TRANSFER HEARING.

22 [(f)] (G) 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)] (H) (1) Pending a determination under this section to transfer its
26 jurisdiction, the court may order a child to be held in a SECURE juvenile facility.

27 (2) A HEARING ON A MOTION REQUESTING THAT A CHILD BE HELD IN A
28 JUVENILE FACILITY PENDING A TRANSFER DETERMINATION SHALL BE HELD NOT
29 LATER THAN THE NEXT COURT DAY, UNLESS EXTENDED BY THE COURT FOR GOOD
30 CAUSE SHOWN.

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

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

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

4 (iii) The court [may] SHALL consider a victim impact statement in
5 determining whether to transfer jurisdiction under this section.

6 (J) ~~SUBJECT TO THE REQUIREMENTS OF § 4-202.1(B)(2)(III) OF THIS SUBTITLE,~~
7 ~~AT~~ AT A BAIL REVIEW OR PRELIMINARY HEARING BEFORE THE DISTRICT COURT
8 INVOLVING A CHILD WHOSE CASE IS ELIGIBLE FOR TRANSFER UNDER SUBSECTIONS
9 (B)(1) AND (2) AND (C) OF THIS SECTION, THE DISTRICT COURT MAY ORDER THAT A
10 STUDY BE MADE UNDER THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, OR
11 THAT THE CHILD BE HELD IN A SECURE JUVENILE FACILITY UNDER THE
12 PROVISIONS OF SUBSECTION (H) OF THIS SECTION, REGARDLESS OF WHETHER THE
13 DISTRICT COURT HAS CRIMINAL JURISDICTION OVER THE CASE.

14 4-202.1.

15 (A) IN THIS SECTION, "CHILD" MEANS A DEFENDANT WHO IS UNDER THE AGE
16 OF 18 YEARS AND WHOSE CASE IS ELIGIBLE FOR TRANSFER UNDER THE PROVISIONS
17 OF § 4-202(B)(1) AND (2) AND (C) OF THIS SUBTITLE.

18 (B) ~~IF THE DISTRICT COURT DETERMINES AT A BAIL REVIEW HEARING THAT A~~
19 ~~CHILD SHALL REMAIN~~ REMAINS IN CUSTODY FOR ANY REASON AFTER A BAIL
20 REVIEW HEARING:

21 (1) IN THE CASE OF A CHILD CHARGED WITH A FELONY THAT IS NOT
22 WITHIN THE JURISDICTION OF THE DISTRICT COURT, THE DISTRICT COURT SHALL:

23 (I) CLEARLY INDICATE ON THE CASE FILE AND IN COMPUTER
24 RECORDS THAT THE CASE INVOLVES A DETAINED CHILD; AND

25 (II) SET A PRELIMINARY HEARING TO BE HELD WITHIN 15 DAYS
26 AFTER THE BAIL REVIEW HEARING; OR

27 (2) IN THE CASE OF A CHILD CHARGED WITH A CRIME IN THE DISTRICT
28 COURT, THE DISTRICT COURT ~~SHALL~~:

29 (I) SHALL CLEARLY INDICATE ON THE CASE FILE AND IN
30 COMPUTER RECORDS THAT THE CASE INVOLVES A DETAINED CHILD;

31 (II) SHALL SET A TRANSFER HEARING UNDER § 4-202 OF THIS
32 SUBTITLE TO BE HELD WITHIN 30 DAYS AFTER THE FILING OF THE CHARGING
33 DOCUMENT;

34 (III) MAY ORDER THAT A STUDY BE MADE UNDER § 4-202 OF THIS
35 SUBTITLE; AND

1 (IV) SHALL REQUIRE THAT PROMPT NOTICE BE GIVEN TO COUNSEL
2 FOR THE CHILD, OR, IF THE CHILD IS NOT REPRESENTED BY COUNSEL, TO THE
3 OFFICE OF THE PUBLIC DEFENDER.

4 (C) ON RECEIPT OF A DISTRICT COURT CASE FILE THAT INDICATES THAT THE
5 CASE INVOLVES A ~~DETAINED~~ CHILD WHO WAS DETAINED AFTER A BAIL REVIEW
6 HEARING UNDER SUBSECTION (B) OF THIS SECTION, A CIRCUIT COURT ~~SHALL~~:

7 (1) UNLESS PREVIOUSLY SET BY THE DISTRICT COURT UNDER
8 SUBSECTION (B)(2) OF THIS SECTION, SHALL SET A TRANSFER HEARING UNDER §
9 4-202 OF THIS SUBTITLE TO BE HELD WITHIN 30 DAYS AFTER THE FILING OF THE
10 CHARGING DOCUMENT IN THE CIRCUIT COURT;

11 (2) UNLESS PREVIOUSLY ORDERED BY THE DISTRICT COURT UNDER
12 SUBSECTION (B)(2) OF THIS SECTION, MAY ORDER THAT A STUDY BE MADE UNDER §
13 4-202 OF THIS SUBTITLE; AND

14 (3) SHALL REQUIRE THAT PROMPT NOTICE BE GIVEN TO COUNSEL FOR
15 THE CHILD, OR, IF THE CHILD IS NOT REPRESENTED BY COUNSEL, TO THE OFFICE OF
16 THE PUBLIC DEFENDER.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act
18 shall be construed prospectively to apply only to offenses committed on or after the
19 effective date of this Act and may not be applied or interpreted to have any effect on
20 or application to offenses that were committed before the effective date of this Act.

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