

SENATE BILL 353

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2001 Regular Session  
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By: **Senators Jimeno, Hughes, and Ferguson (Commission on Juvenile Justice Jurisdiction)**

Introduced and read first time: February 1, 2001  
Assigned to: Judicial Proceedings

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: March 13, 2001

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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; requiring a circuit court  
16 to take certain actions on receipt of a District Court case file indicating that the  
17 case involves a detained child; clarifying language; defining a certain term;  
18 providing for the application of this Act; and generally relating to procedures  
19 involving certain detained juvenile defendants and the transfer of cases from  
20 criminal court to juvenile court.

21 BY repealing and reenacting, with amendments,  
22 Article - Criminal Procedure  
23 Section 4-202  
24 Annotated Code of Maryland  
25 (As enacted by Chapter \_\_\_\_\_(S.B. 1) of the Acts of the General Assembly of 2001)

1 BY adding to  
2 Article - Criminal Procedure  
3 Section 4-202.1  
4 Annotated Code of Maryland  
5 (As enacted by Chapter \_\_\_\_\_ (S.B. 1) of the Acts of the General Assembly of 2001)

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

8 **Article - Criminal Procedure**

9 4-202.

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) the age of the child;

- 1 (2) the mental and physical condition of the child;
- 2 (3) the amenability of the child to treatment in an institution, facility, or  
3 program available to delinquent children;
- 4 (4) the nature of the alleged crime; and
- 5 (5) the public safety.

6 (e) (1) In making a determination under this section, the court may  
7 [request] ORDER that a study be made concerning the child, the family of the child,  
8 the environment of the child, and other matters concerning the disposition of the case.

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

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

13 [(f)] (G) If the court transfers its jurisdiction under this section, the court may  
14 order the child held for an adjudicatory hearing under the regular procedure of the  
15 juvenile court.

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

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

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

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

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

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

31 (J) SUBJECT TO THE REQUIREMENTS OF § 4-202.1(B)(2)(III) OF THIS SUBTITLE,  
32 AT A BAIL REVIEW OR PRELIMINARY HEARING BEFORE THE DISTRICT COURT  
33 INVOLVING A CHILD WHOSE CASE IS ELIGIBLE FOR TRANSFER UNDER SUBSECTIONS  
34 (B)(1) AND (2) AND (C) OF THIS SECTION, THE DISTRICT COURT MAY ORDER THAT A  
35 STUDY BE MADE UNDER THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, OR  
36 THAT THE CHILD BE HELD IN A SECURE JUVENILE FACILITY UNDER THE

1 PROVISIONS OF SUBSECTION (H) OF THIS SECTION, REGARDLESS OF WHETHER THE  
2 DISTRICT COURT HAS CRIMINAL JURISDICTION OVER THE CASE.

3 4-202.1.

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

7 (B) IF THE DISTRICT COURT DETERMINES AT A BAIL REVIEW HEARING THAT A  
8 CHILD SHALL REMAIN IN CUSTODY:

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

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

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

15 (2) IN THE CASE OF A CHILD CHARGED WITH A CRIME IN THE DISTRICT  
16 COURT, THE DISTRICT COURT SHALL:

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

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

21 (III) ORDER THAT A STUDY BE MADE UNDER § 4-202 OF THIS  
22 SUBTITLE; AND

23 (IV) REQUIRE THAT PROMPT NOTICE BE GIVEN TO COUNSEL FOR  
24 THE CHILD, OR, IF THE CHILD IS NOT REPRESENTED BY COUNSEL, TO THE OFFICE OF  
25 THE PUBLIC DEFENDER.

26 (C) ON RECEIPT OF A DISTRICT COURT CASE FILE THAT INDICATES THAT THE  
27 CASE INVOLVES A DETAINED CHILD, A CIRCUIT COURT SHALL:

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

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

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

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

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