

SENATE BILL 537

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HB 1088/00 - JUD

2001 Regular Session
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CF HB 7

By: **Senators Green, Blount, Collins, Ferguson, Haines, Hoffman, Hogan,
Hollinger, Hughes, Kasemeyer, Kelley, Lawlah, McFadden, Middleton,
Mitchell, Mooney, Roesser, Sfikas, Stone, and Van Hollen**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State Juvenile Justice Disciplinary and Grievance Advisory Commission**

3 FOR the purpose of establishing the State Juvenile Justice Disciplinary and
4 Grievance Advisory Commission to inform and advise the Secretary of Juvenile
5 Justice on issues regarding the care and supervision of children under the
6 jurisdiction of the Department of Juvenile Justice; requiring the Department to
7 adopt a certain policy; requiring the Department to cooperate with the
8 Commission and Area Advocacy Boards in a certain manner; specifying the
9 membership of the Commission; providing for the terms of office of the members
10 of the Commission; providing for the appointment of certain members of the
11 Commission; providing for a certain meeting schedule for the Commission;
12 establishing that a majority of the Commission constitutes a quorum for a
13 certain purpose; prohibiting a member of the Commission from receiving
14 compensation; authorizing a member of the Commission to receive
15 reimbursement for certain expenses; establishing certain duties of the
16 Commission; authorizing the Commission to take certain actions; requiring the
17 Commission to employ certain staff; providing for certain salaries and expenses;
18 requiring the Commission to set certain salaries, qualifications, and standards
19 in a certain manner; establishing certain duties of a commission monitor;
20 establishing Area Advocacy Boards within the Commission; specifying the
21 membership of each Area Advocacy Board; providing for the appointment of a
22 chairman of each Area Advocacy Board; providing for the terms of a member of
23 an Area Advocacy Board; prohibiting a member of an Area Advocacy Board from
24 receiving compensation; authorizing a member of an Area Advocacy Board to
25 receive reimbursement for certain expenses; providing for a certain meeting
26 schedule for an Area Advocacy Board; providing for staff support for an Area
27 Advocacy Board; establishing the duties of an Area Advocacy Board; specifying
28 the terms of the initial members of the Commission and Area Advocacy Boards;
29 defining certain terms; and generally relating to the State Juvenile Justice
30 Disciplinary and Grievance Advisory Commission.

31 BY repealing and reenacting, with amendments,

32 Article 83C - Juvenile Justice

1 Section 1-101 and 2-118
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2000 Supplement)

4 BY adding to
5 Article 83C - Juvenile Justice
6 Section 5-101 through 5-107, inclusive, to be under the new title "Title 5. State
7 Juvenile Justice Disciplinary and Grievance Advisory Commission"
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2000 Supplement)

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

12 **Article 83C - Juvenile Justice**

13 1-101.

14 (a) In this article the following words have the meanings indicated.

15 (b) "Department" means the Department of Juvenile Justice.

16 (c) "County" means a county of this State and, unless expressly provided
17 otherwise, Baltimore City.

18 (D) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION OR ALTERATION
19 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULTS IN MORE SECURITY,
20 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM.

21 (E) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON BEHALF OF A
22 CHILD BY A PARENT, GUARDIAN, OR ATTORNEY FOR THE CHILD DUE TO A
23 CIRCUMSTANCE OR ACTION CONSIDERED TO BE UNJUST.

24 [(d)] (F) "Secretary" means the Secretary of the Department of Juvenile
25 Justice.

26 [(e)] (G) "Person" means an individual, receiver, trustee, guardian, personal
27 representative, fiduciary, or representative of any kind and any partnership, firm,
28 association, corporation, or other entity.

29 [(f)] (H) "State" means:

30 (1) A state, possession, or territory of the United States;

31 (2) The District of Columbia; or

32 (3) The Commonwealth of Puerto Rico.

1 [(g)] (I) "State Advisory Board" means the State Advisory Board for Juvenile
2 Justice.

3 2-118.

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

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

8 (1) Adopt rules and regulations that set:

9 (i) Policies for admission, transfer, discharge, and aftercare
10 supervision; and

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

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

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

19 (1) Prohibit the use of locked door seclusion and restraints as
20 punishment, and describe the circumstances under which locked door seclusion and
21 restraints may be used; and

22 (2) Prohibit abuse of a child.

23 (D) (1) THE DEPARTMENT SHALL ADOPT A POLICY FOR ADDRESSING
24 DISCIPLINARY ACTIONS AND GRIEVANCES WITHIN ITS FACILITIES.

25 (2) THE POLICY SHALL:

26 (I) REQUIRE PREPARATION OF A WRITTEN REPORT OF ANY
27 DISCIPLINARY ACTION TAKEN AGAINST A CHILD OR ANY GRIEVANCE, WHICH SHALL
28 BE FORWARDED TO THE ADMINISTRATIVE HEAD OF THE FACILITY;

29 (II) REQUIRE THE ADMINISTRATIVE HEAD OF EACH FACILITY TO
30 REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS AND GRIEVANCES; AND

31 (III) REQUIRE THE DEPARTMENT TO FORWARD IN A TIMELY
32 MANNER ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE
33 DISPOSITIONS FROM EACH FACILITY TO THE COMMISSION MONITOR ASSIGNED TO
34 THE FACILITY IN ACCORDANCE WITH TITLE 5 OF THIS ARTICLE.

1 [(d)] (E) The Department shall develop within each facility special programs
2 that are designed to meet the particular needs of its population.

3 [(e)] (F) The Department shall develop and provide within each facility:

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

6 (2) Alcohol abuse and drug abuse assessment services; and

7 (3) Either alcohol abuse and drug abuse referral services or an alcohol
8 abuse and drug abuse treatment program that has been certified in accordance with
9 the requirements of Title 8 of the Health - General Article.

10 (G) THE DEPARTMENT SHALL COOPERATE WITH THE STATE JUVENILE
11 JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY COMMISSION AND AREA
12 ADVOCACY BOARDS ESTABLISHED IN TITLE 5 OF THIS ARTICLE BY:

13 (1) PROVIDING TO THE COMMISSION, COMMISSION MONITORS, AND
14 AREA ADVOCACY BOARDS ACCESS TO ALL FACILITIES, REPORTS, AND RECORDS
15 NECESSARY FOR THE MONITORING OF FACILITIES AND PROGRAMS IN ACCORDANCE
16 WITH TITLE 5 OF THIS ARTICLE;

17 (2) PROVIDING A REPRESENTATIVE, WHEN REQUESTED, AT ANY
18 MEETING CONDUCTED BY THE COMMISSION OR AN AREA ADVOCACY BOARD; AND

19 (3) REPORTING TO THE COMMISSION ACTIONS TAKEN BY THE
20 DEPARTMENT IN RESPONSE TO ANY PROBLEM IDENTIFIED BY THE COMMISSION
21 REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION
22 OF THE DEPARTMENT.

23 TITLE 5. STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE ADVISORY
24 COMMISSION.

25 5-101.

26 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

27 (B) "AREA" MEANS THE DEPARTMENT'S DESIGNATED GEOGRAPHIC DIVISION
28 WITHIN THE STATE FOR THE PURPOSE OF ADMINISTERING INTAKE, DETENTION,
29 PROBATION, AND AFTERCARE FOR DELINQUENT CHILDREN.

30 (C) "COMMISSION" MEANS THE STATE JUVENILE JUSTICE DISCIPLINARY AND
31 GRIEVANCE ADVISORY COMMISSION.

32 (D) "FACILITY" MEANS:

33 (1) RESIDENTIAL AND NONRESIDENTIAL FACILITIES OPERATED BY THE
34 DEPARTMENT; AND

1 (2) SECURE RESIDENTIAL FACILITIES OPERATED BY PRIVATE ENTITIES
2 UNDER CONTRACT WITH THE DEPARTMENT.

3 (E) "COMMISSION MONITOR" MEANS AN INDIVIDUAL EMPLOYED BY THE
4 COMMISSION TO DETERMINE WHETHER THE NEEDS OF CHILDREN UNDER THE
5 JURISDICTION OF THE DEPARTMENT ARE BEING MET IN COMPLIANCE WITH STATE
6 LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT THEY ARE NOT BEING
7 ABUSED.

8 5-102.

9 (A) THERE IS A STATE JUVENILE JUSTICE DISCIPLINARY AND GRIEVANCE
10 ADVISORY COMMISSION, INDEPENDENT FROM THE DEPARTMENT, THAT SHALL
11 INFORM AND ADVISE THE SECRETARY ON ISSUES REGARDING THE CARE AND
12 SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT.

13 (B) THE COMMISSION SHALL CONSIST OF:

14 (1) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

15 (I) ONE MEMBER OF THE SENATE OF MARYLAND, RECOMMENDED
16 BY THE PRESIDENT OF THE SENATE;

17 (II) ONE MEMBER OF THE HOUSE OF DELEGATES, RECOMMENDED
18 BY THE SPEAKER OF THE HOUSE;

19 (III) ONE REPRESENTATIVE OF THE STATE JUDICIARY WHO IS
20 KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES;

21 (IV) ONE REPRESENTATIVE OF A COMMUNITY-BASED ADVOCACY
22 GROUP WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES,
23 RECOMMENDED BY ADVOCATES FOR CHILDREN AND YOUTH;

24 (V) ONE REPRESENTATIVE OF THE PUBLIC DEFENDER'S OFFICE
25 WHO IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES;

26 (VI) ONE REPRESENTATIVE OF A LAW ENFORCEMENT AGENCY WHO
27 IS KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES ON A
28 STATEWIDE BASIS; AND

29 (VII) ONE REPRESENTATIVE FROM THE GENERAL PUBLIC WHO IS
30 KNOWLEDGEABLE AND EXPERIENCED IN JUVENILE JUSTICE ISSUES; AND

31 (2) THE CHAIRMAN OF EACH AREA ADVOCACY BOARD ESTABLISHED IN
32 ACCORDANCE WITH § 5-106 OF THIS TITLE.

33 (C) (1) THE TERM OF A MEMBER OF THE COMMISSION IS 3 YEARS.

34 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
35 TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2001.

1 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
2 SUCCESSOR IS APPOINTED AND QUALIFIES.

3 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
4 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
5 QUALIFIES.

6 (D) (1) FROM AMONG THE MEMBERS OF THE COMMISSION, THE GOVERNOR
7 SHALL APPOINT A CHAIRMAN.

8 (2) (I) FROM AMONG THE MEMBERS OF THE COMMISSION, THE
9 COMMISSION CHAIRMAN SHALL APPOINT A COMMISSION SECRETARY.

10 (II) THE COMMISSION SECRETARY SHALL KEEP FULL AND
11 ACCURATE MINUTES OF EACH COMMISSION MEETING.

12 (E) (1) THE COMMISSION SHALL MEET REGULARLY AT LEAST ONCE EACH
13 MONTH ON THE CALL OF ITS CHAIRMAN.

14 (2) A MAJORITY OF THE COMMISSION SHALL CONSTITUTE A QUORUM
15 FOR THE PURPOSE OF HOLDING A MEETING.

16 (F) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION, BUT
17 IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
18 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

19 5-103.

20 (A) THE COMMISSION SHALL:

21 (1) MONITOR FACILITIES AND PROGRAMS OPERATED BY THE
22 DEPARTMENT ON ISSUES REGARDING THE CARE AND SUPERVISION OF CHILDREN
23 UNDER THE JURISDICTION OF THE DEPARTMENT;

24 (2) RECEIVE INFORMATION FROM COMMISSION MONITORS AND AREA
25 ADVOCACY BOARDS AS PROVIDED IN THIS TITLE;

26 (3) GATHER INFORMATION ON ISSUES REGARDING THE CARE AND
27 SUPERVISION OF CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT FROM
28 VARIOUS SOURCES, INCLUDING:

29 (I) MEMBERS OF THE PUBLIC;

30 (II) JUVENILE JUSTICE SYSTEM PERSONNEL;

31 (III) ADVOCATES; AND

32 (IV) FAMILIES AND CHILDREN INVOLVED IN THE JUVENILE
33 JUSTICE SYSTEM;

34 (4) PUBLISH REGULAR AND PERIODIC REPORTS ON ITS FINDINGS;

1 (5) OVERSEE THE ACTIVITIES OF AND REVIEW REPORTS FROM THE
2 AREA ADVOCACY BOARDS; AND

3 (6) ON OR BEFORE OCTOBER 1 OF EACH YEAR, REPORT ITS FINDINGS
4 AND RECOMMENDATIONS TO:

5 (I) THE GOVERNOR;

6 (II) THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF
7 THE STATE GOVERNMENT ARTICLE;

8 (III) THE CHIEF JUDGE OF THE COURT OF APPEALS; AND

9 (IV) THE SECRETARY.

10 (B) IN PERFORMING ITS DUTIES UNDER SUBSECTION (A) OF THIS SECTION,
11 THE COMMISSION MAY:

12 (1) ACCESS APPROPRIATE INFORMATION CONCERNING CHILDREN
13 UNDER THE JURISDICTION OF THE DEPARTMENT;

14 (2) CONDUCT PUBLIC HEARINGS;

15 (3) PERFORM SITE VISITS AND ON-SITE INSPECTIONS OF FACILITIES;
16 AND

17 (4) REPORT TO THE SECRETARY KNOWLEDGE OF ANY PROBLEM
18 REGARDING THE CARE AND SUPERVISION OF CHILDREN UNDER THE JURISDICTION
19 OF THE DEPARTMENT.

20 5-104.

21 (A) THE COMMISSION SHALL EMPLOY A FULL-TIME EXECUTIVE DIRECTOR,
22 TWO ADMINISTRATIVE ASSISTANTS, AND THREE COMMISSION MONITORS TO CARRY
23 OUT THE WORK OF THE COMMISSION.

24 (B) ALL SALARIES FOR THE EXECUTIVE DIRECTOR AND STAFF AND EXPENSES
25 FOR RENT, STATIONERY, POSTAGE, AND MISCELLANEOUS OFFICE MATERIALS
26 NECESSARY FOR THE WORK OF THE COMMISSION SHALL BE AS PROVIDED IN THE
27 STATE BUDGET.

28 (C) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT,
29 THE COMMISSION SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND
30 STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS WITH THE COMMISSION.

31 5-105.

32 (A) EACH COMMISSION MONITOR SHALL BE ASSIGNED TO SPECIFIC
33 FACILITIES AND PROGRAMS OPERATED BY THE DEPARTMENT.

34 (B) A COMMISSION MONITOR SHALL:

1 (1) RECEIVE FROM THE DEPARTMENT FOR EACH FACILITY TO WHICH
2 THE MONITOR IS ASSIGNED REPORTS OF ALL DISCIPLINARY ACTIONS AND
3 GRIEVANCES;

4 (2) REVIEW ALL REPORTS RECEIVED UNDER PARAGRAPH (1) OF THIS
5 SUBSECTION;

6 (3) INFORM THE SECRETARY WHEN THERE IS A NEED TO INITIATE
7 ACTIONS WITH APPROPRIATE AUTHORITIES TO REMEDY ANY IMMEDIATE THREAT TO
8 A CHILD;

9 (4) REPORT MONTHLY TO THE COMMISSION ON ALL MONITORING
10 ACTIVITIES; AND

11 (5) REPORT QUARTERLY ON ALL MONITORING ACTIVITIES TO THE AREA
12 ADVOCACY BOARDS FOR THE AREAS IN WHICH THE FACILITIES TO WHICH THE
13 COMMISSION MONITOR IS ASSIGNED ARE LOCATED.

14 5-106.

15 (A) THERE IS ESTABLISHED WITHIN THE COMMISSION AN AREA ADVOCACY
16 BOARD FOR EACH AREA IN THE STATE.

17 (B) EACH AREA ADVOCACY BOARD SHALL CONSIST OF FIVE MEMBERS
18 APPOINTED BY THE CHAIRMAN OF THE COMMISSION, SUBJECT TO CONFIRMATION
19 BY THE COMMISSION, AS FOLLOWS:

20 (1) ONE REPRESENTATIVE OF A COMMUNITY-BASED ADVOCACY GROUP
21 WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

22 (2) ONE REPRESENTATIVE OF THE AREA'S LOCAL GOVERNMENT WITH
23 KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

24 (3) ONE REPRESENTATIVE OF AN AREA NONPROFIT GROUP WITH
25 KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE ISSUES;

26 (4) ONE REPRESENTATIVE OF AN AREA EDUCATION OR MENTAL
27 HEALTH AGENCY WITH KNOWLEDGE AND EXPERIENCE IN JUVENILE JUSTICE
28 ISSUES; AND

29 (5) ONE REPRESENTATIVE OF AN AREA BAR ASSOCIATION.

30 (C) FROM AMONG THE MEMBERS, THE CHAIRMAN OF THE COMMISSION
31 SHALL APPOINT A CHAIRMAN OF EACH AREA ADVOCACY BOARD.

32 (D) (1) THE TERM OF A MEMBER OF AN AREA ADVOCACY BOARD IS 3 YEARS.

33 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
34 TERMS PROVIDED FOR MEMBERS OF THE BOARDS ON OCTOBER 1, 2001.

1 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
2 SUCCESSOR IS APPOINTED AND QUALIFIES.

3 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
4 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
5 QUALIFIES.

6 (E) A MEMBER OF AN AREA ADVOCACY BOARD MAY NOT RECEIVE
7 COMPENSATION, BUT IS ENTITLED TO REIMBURSEMENT UNDER THE STANDARD
8 STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

9 (F) THE AREA ADVOCACY BOARDS SHALL MEET AT LEAST QUARTERLY, BUT
10 MORE OFTEN IF DETERMINED NECESSARY BY THE COMMISSION.

11 (G) THE AREA ADVOCACY BOARDS SHALL RECEIVE STAFF SUPPORT FROM
12 THE COMMISSION.

13 5-107.

14 (A) THE AREA ADVOCACY BOARDS SHALL REVIEW THE QUARTERLY REPORTS
15 OF THE COMMISSION MONITORS TO DETERMINE WHETHER THERE IS A PATTERN OF
16 ABUSE, NEGLECT, FAILURE TO FOLLOW PROCEDURES, INAPPROPRIATE
17 DISCIPLINARY ACTION, OR OTHER SYSTEMIC FAILINGS WITHIN THE FACILITIES OR
18 PROGRAMMING OF THE DEPARTMENT OR AMONG ONE OR MORE RESIDENTIAL
19 STAFF.

20 (B) EACH AREA ADVOCACY BOARD SHALL FORWARD IN A TIMELY MANNER A
21 COPY OF THE QUARTERLY REPORT OF THE COMMISSION MONITORS WITH A REPORT
22 OF THE AREA ADVOCACY BOARD'S FINDINGS TO THE CHAIRMAN OF THE
23 COMMISSION AND TO THE SECRETARY OF THE DEPARTMENT.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the
25 members of the State Juvenile Justice Disciplinary and Grievance Advisory
26 Commission shall expire as follows:

27 (1) four members in 2002;

28 (2) four members in 2003; and

29 (3) four members in 2004.

30 SECTION 3. AND BE IT FURTHER ENACTED, That the initial terms of the
31 members of each Area Advocacy Board shall expire as follows:

32 (1) two members in 2002;

33 (2) one member in 2003; and

34 (3) two members in 2004.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.