

HOUSE BILL 608

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E3
HB 827/01 - JUD

2002 Regular Session
2lr0759

By: **Delegates Marriott, Benson, Branch, Burns, C. Davis, Dobson, Fulton,
Gladden, Harrison, Howard, V. Jones, Kirk, Montague, Nathan-Pulliam,
Oaks, Paige, Phillips, Proctor, and Swain**

Introduced and read first time: February 4, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the exclusive jurisdiction of the juvenile court to
4 include proceedings involving certain children alleged to have committed certain
5 acts; requiring a hearing to waive jurisdiction of the juvenile court to be held
6 within a certain time period; requiring a child to be represented by counsel at a
7 certain hearing; requiring the court to grant certain continuances; repealing
8 provisions of law authorizing a juvenile court exercising jurisdiction over a child
9 to waive its jurisdiction after summary review under certain circumstances;
10 repealing provisions of law authorizing a court exercising criminal jurisdiction
11 to transfer jurisdiction to the juvenile court under certain circumstances;
12 repealing provisions of law prohibiting a court exercising criminal jurisdiction
13 from transferring jurisdiction to the juvenile court under certain circumstances;
14 making certain conforming changes; providing for the application of this Act;
15 and generally relating to the jurisdiction of the juvenile court.

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-8A-03(d) and 3-8A-06
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2001 Supplement)

21 BY repealing
22 Article - Criminal Procedure
23 Section 4-202
24 Annotated Code of Maryland
25 (2001 Volume)

26 BY repealing and reenacting, with amendments,
27 Article - Criminal Procedure
28 Section 10-215(a)(21) and 10-216(e)(1)
29 Annotated Code of Maryland

1 (2001 Volume)

2 BY repealing and reenacting, without amendments,

3 Article - Education

4 Section 7-303(a)(1)

5 Annotated Code of Maryland

6 (2001 Replacement Volume)

7 BY repealing and reenacting, with amendments,

8 Article - Education

9 Section 7-303(a)(5)(ii)

10 Annotated Code of Maryland

11 (2001 Replacement Volume)

12 BY renumbering

13 Article - Criminal Procedure

14 Section 4-202.1

15 to be Section 4-202

16 Annotated Code of Maryland

17 (2001 Volume)

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

20 **Article - Courts and Judicial Proceedings**

21 3-8A-03.

22 (d) The court does not have jurisdiction over:

23 (1) [A child at least 14 years old alleged to have done an act which, if
24 committed by an adult, would be a crime punishable by death or life imprisonment, as
25 well as all other charges against the child arising out of the same incident, unless an
26 order removing the proceeding to the court has been filed under § 4-202 of the
27 Criminal Procedure Article;

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

31 [(3)] (2) A child at least 16 years old alleged to have done an act in
32 violation of any provision of law, rule, or regulation governing the use or operation of
33 a boat, except an act that prescribes a penalty of incarceration; OR

34 [(4) A child at least 16 years old alleged to have committed any of the
35 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 4-202 of the Criminal Procedure Article:

- 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 § 4-202 of the Criminal Procedure Article; or
- 31 (6)] (3) A peace order proceeding in which the victim, as defined in §
32 3-8A-01(v)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of
33 the Family Law Article.

1 3-8A-06.

2 (a) The court may waive the exclusive jurisdiction conferred by § 3-8A-03 of
3 this subtitle with respect to a petition alleging delinquency by:

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

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

8 (b) (1) The court may not waive its jurisdiction under this section until after
9 it has conducted a waiver hearing, held prior to an adjudicatory hearing and after
10 notice has been given to all parties as prescribed by the Maryland Rules. The waiver
11 hearing is solely to determine whether the court should waive its jurisdiction.

12 (2) A WAIVER HEARING SHALL BE HELD WITHIN 14 DAYS AFTER THE
13 FILING OF A PETITION ALLEGING DELINQUENCY.

14 (3) A CHILD SHALL BE REPRESENTED BY COUNSEL AT A WAIVER
15 HEARING.

16 (4) IN SCHEDULING A WAIVER HEARING UNDER THIS SECTION, THE
17 COURT SHALL GRANT ALL REASONABLE REQUESTS FOR CONTINUANCE OF THE
18 HEARING.

19 (c) (1) Notice of the waiver hearing shall be given to a victim as provided
20 under § 11-104 of the Criminal Procedure Article.

21 (2) (i) A victim may submit a victim impact statement to the court as
22 provided in § 11-402 of the Criminal Procedure Article.

23 (ii) This paragraph does not preclude a victim who has not filed a
24 notification request form under § 11-104 of the Criminal Procedure Article from
25 submitting a victim impact statement to the court.

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

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

31 (2) For purposes of determining whether to waive its jurisdiction under
32 this section, the court shall assume that the child committed the delinquent act
33 alleged.

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

36 (1) Age of the child;

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 § 3-8A-03(d)(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) In making a determination under this section, the court may order that a
16 study be made concerning the child, the family of the child, the environment of the
17 child, and other matters concerning the disposition of the case.

18 (f) The court shall make a transfer determination within 10 days after the
19 date of a transfer hearing.

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

23 (h) (1) Pending a determination under this section to transfer its
24 jurisdiction, the court may order a child to be held in a secure juvenile facility.

25 (2) A hearing on a motion requesting that a child be held in a juvenile
26 facility pending a transfer determination shall be held not later than the next court
27 day, unless extended by the court for good cause shown.

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

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

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

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

3 (j) At a bail review or preliminary hearing before the District Court involving
4 a child whose case is eligible for transfer under subsections (b)(1) and (2) and (c) of
5 this section, the District Court may order that a study be made under the provisions
6 of subsection (e) of this section, or that the child be held in a secure juvenile facility
7 under the provisions of subsection (h) of this section, regardless of whether the
8 District Court has criminal jurisdiction over the case.]

9 10-215.

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

12 (21) an adjudication of a child as delinquent:

13 (i) if the child is at least 14 years old, for an act [described in §
14 3-8A-03(d)(1) of the Courts Article; or] WHICH, IF COMMITTED BY AN ADULT, WOULD
15 BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT
16 WITHOUT THE POSSIBILITY OF PAROLE;

17 (ii) if the child is at least 16 years old, for an act [described in §
18 3-8A-03(d)(4) or (5) of the Courts Article;] WHICH, IF COMMITTED BY AN ADULT,
19 WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

- 20 1. ABDUCTION;
- 21 2. KIDNAPPING;
- 22 3. SECOND DEGREE MURDER;
- 23 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
24 MANSLAUGHTER;
- 25 5. SECOND DEGREE RAPE;
- 26 6. ROBBERY UNDER § 3-403 OF THE CRIMINAL LAW ARTICLE;
- 27 7. SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306 OF
28 THE CRIMINAL LAW ARTICLE;
- 29 8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307 OF THE
30 CRIMINAL LAW ARTICLE;
- 31 9. A CRIME UNDER ARTICLE 27, § 445, § 446, OR § 481C OF THE
32 CODE OR §§ 4-202 THROUGH 4-204, § 4-404, OR § 4-405 OF THE CRIMINAL LAW ARTICLE;
- 33 10. USING, WEARING, CARRYING, OR TRANSPORTING OF A
34 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER § 5-621
35 OF THE CRIMINAL LAW ARTICLE;

