Unofficial Copy 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

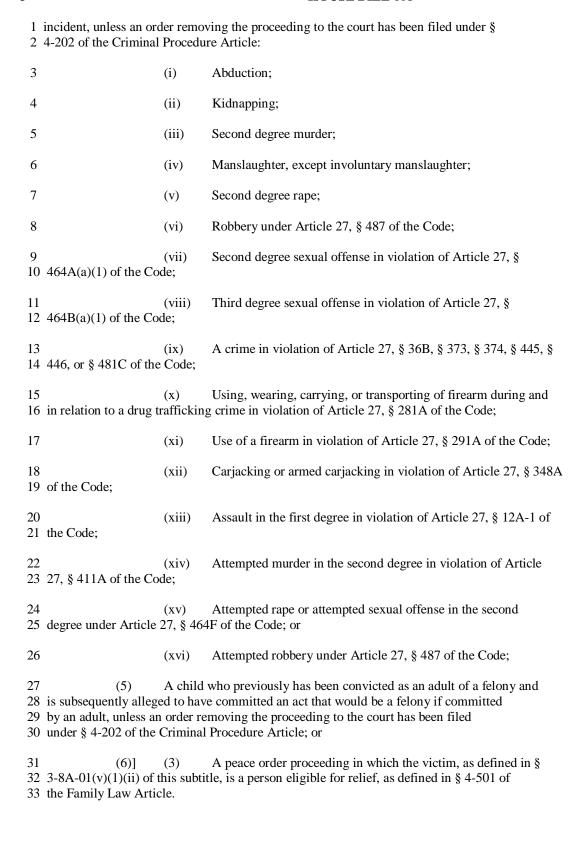
4	A 3 T		
1	AN	A(T	concerning
-	4 41 1	1101	Concerning

/	2	Juvenne	Court -	· Expansion	of Jurisaic	uon

3	FOR the purpos	e of expand	ing the excl	nsive inri	isdiction of	the invenile	court to
,	1 OIL are purpos	o or expand	me une exer	usive jui	isaicuon oi	tile juvelille v	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
- 10 repeating provisions of raw authorizing a court exercising criminal jurisdiction
- to transfer jurisdiction to the juvenile court under certain circumstances;
- 12 repealing provisions of law prohibiting a court exercising criminal jurisdiction
- from transferring jurisdiction to the juvenile court under certain circumstances;
- making certain conforming changes; providing for the application of this Act;
- 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

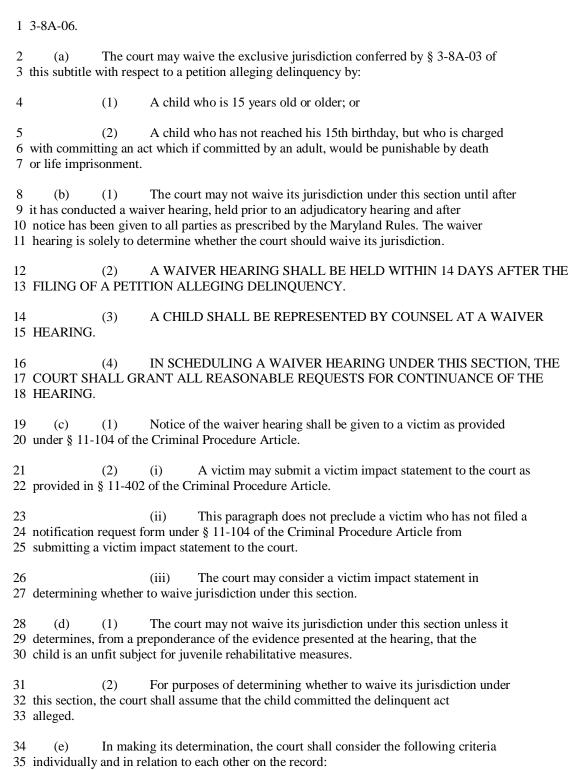
1	(2001 Volume)
2 3 4 5 6	BY repealing and reenacting, without amendments, Article - Education Section 7-303(a)(1) Annotated Code of Maryland (2001 Replacement Volume)
7 8 9 10	BY repealing and reenacting, with amendments, Article - Education Section 7-303(a)(5)(ii) Annotated Code of Maryland (2001 Replacement Volume)
12 13 14 15 16	Section 4-202.1 to be Section 4-202 Annotated Code of Maryland
18 19	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 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:
25 26	(1) [A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;
	(2)] A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;
	[(3)] (2) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration; OR
34 35	[(4) A child at least 16 years old alleged to have committed any of the following crimes as well as all other charges against the child arising out of the same



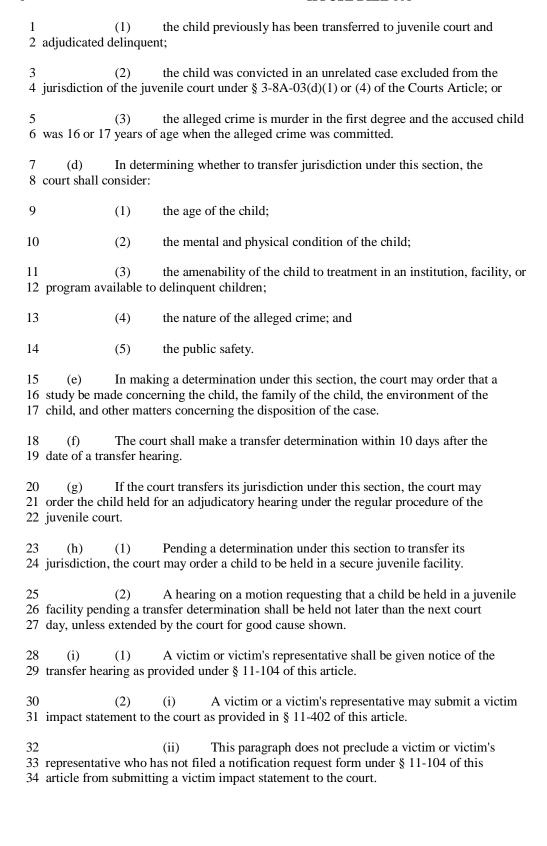
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(1)

Age of the child;



1 (2) Mental and physical condition of the child; 2 (3) The child's amenability to treatment in any institution, facility, or program available to delinquents; 4 (4) The nature of the offense and the child's alleged participation in it; 5 and 6 The public safety. (5) 7 If jurisdiction is waived under this section, the court shall order the child 8 held for trial under the regular procedures of the court which would have jurisdiction 9 over the offense if committed by an adult. The petition alleging delinquency shall be 10 considered a charging document for purposes of detaining the child pending a bail 11 hearing. 12 (g) An order waiving jurisdiction is interlocutory. 13 If the court has once waived its jurisdiction with respect to a child in [(h) 14 accordance with this section, and that child is subsequently brought before the court 15 on another charge of delinquency, the court may waive its jurisdiction in the subsequent proceeding after summary review.] 17 **Article - Criminal Procedure** 18 [4-202. 19 (1) In this section the following words have the meanings indicated. (a) 20 (2) "Victim" has the meaning stated in § 11-104 of this article. 21 (3) "Victim's representative" has the meaning stated in § 11-104 of this 22 article. 23 Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile 24 25 court if: the accused child was at least 14 but not 18 years of age when the 26 (1) 27 alleged crime was committed; the alleged crime is excluded from the jurisdiction of the juvenile 28 (2) 29 court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and 30 (3) the court believes that a transfer of its jurisdiction is in the interest of 31 the child or society. 32 (c) The court may not transfer a case to the juvenile court under subsection (b) 33 of this section if:



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, WOUI 15 BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONI 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;	
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 I	LAW ARTICLE;
27 7. SECOND DEGREE SEXUAL OFFENSE UNDER § 28 THE CRIMINAL LAW ARTICLE;	3-306 OF
29 8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-30 CRIMINAL LAW ARTICLE;	-307 OF THE
31 9. A CRIME UNDER ARTICLE 27, § 445, § 446, OR 32 CODE OR §§ 4-202 THROUGH 4-204, § 4-404, OR § 4-405 OF THE CRIMINAL LAW AI	
10. USING, WEARING, CARRYING, OR TRANSPOR 34 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER 35 OF THE CRIMINAL LAW ARTICLE;	

1 2 ARTICLE;	11.	USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW		
3 4 THE CRIMINAL LAW ARTI	12. ICLE;	CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF		
5 6 CRIMINAL LAW ARTICLE	13.	ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE		
7 8 2-206 OF THE CRIMINAL L	14. AW ART	ATTEMPTED MURDER IN THE SECOND DEGREE UNDER § FICLE;		
9 10 THE SECOND DEGREE UN	15. NDER § 3	ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN 3-310 OR § 3-312 OF THE CRIMINAL LAW ARTICLE; OR		
11 12 LAW ARTICLE; AND	16.	ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL		
13 (III) 14 BEEN CONVICTED AS AN 15 FELONY IF COMMITTED I	ADULT	CHILD IS AT LEAST 16 YEARS OLD AND HAS PREVIOUSLY OF A FELONY, FOR AN ACT THAT WOULD BE A ADULT.		
16 10-216.				
17 (e) (1) This sub 18 child:	bsection	only applies to an adjudication of delinquency of a		
	ld FOR <i>A</i> ISHABL	act described in § 3-8A-03(d)(1) of the Courts Article] if AN ACT WHICH, IF COMMITTED BY AN ADULT, E BY DEATH, LIFE IMPRISONMENT, OR LIFE POSSIBILITY OF PAROLE; [or]		
23 (ii) [for an act described in § 3-8A-03(d)(4) or (5) of the Courts 24 Article] if the child is at least 16 years old FOR AN ACT WHICH, IF COMMITTED BY AN 25 ADULT, WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:				
26	1.	ABDUCTION;		
27	2.	KIDNAPPING;		
28	3.	SECOND DEGREE MURDER;		
29 30 MANSLAUGHTER;	4.	MANSLAUGHTER, EXCEPT INVOLUNTARY		
31	5.	SECOND DEGREE RAPE;		
32	6.	ROBBERY UNDER § 3-403 OF THE CRIMINAL LAW ARTICLE;		
33 34 THE CRIMINAL LAW ART	7. TICLE;	SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306 OF		

1 2	CRIMINAL LAW ARTICLE;	8.	THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307 OF THE
3	CODE OR §§ 4-202 THROUG		A CRIME UNDER ARTICLE 27, § 445, § 446, OR § 481C OF THE § 4-404, OR § 4-405 OF THE CRIMINAL LAW ARTICLE;
	FIREARM DURING AND IN OF THE CRIMINAL LAW A	RELATI	USING, WEARING, CARRYING, OR TRANSPORTING OF A ON TO A DRUG TRAFFICKING CRIME UNDER § 5-621
8 9	ARTICLE;	11.	USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW
10 11	THE CRIMINAL LAW ARTI		CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF
12 13	CRIMINAL LAW ARTICLE;		ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE
14 15	2-206 OF THE CRIMINAL L		ATTEMPTED MURDER IN THE SECOND DEGREE UNDER § ICLE;
16 17			ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN 310 OR § 3-312 OF THE CRIMINAL LAW ARTICLE; OR
18 19	LAW ARTICLE; AND	16.	ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL
		ADULT (CHILD IS AT LEAST 16 YEARS OLD AND HAS PREVIOUSLY OF A FELONY, FOR AN ACT THAT WOULD BE A DULT.
23			Article - Education
24	7-303.		
25	(a) (1) In this se	ection the	following words have the meanings indicated.
26	(5) "Reporta	ıble offen	se" means:
27 28	(ii) 3-8A-03(d)(4) of the Courts A		he FOLLOWING offenses [enumerated in §
29		1.	ABDUCTION;
30		2.	KIDNAPPING;
31		3.	SECOND DEGREE MURDER;
32 33	MANSLAUGHTER;	4.	MANSLAUGHTER, EXCEPT INVOLUNTARY

1		5.	SECOND DEGREE RAPE;
2		6.	ROBBERY UNDER \S 3-403 OF THE CRIMINAL LAW ARTICLE;
3	THE CRIMINAL LAW ARTIO	7. CLE;	SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306 OF
5 6	CRIMINAL LAW ARTICLE;	8.	THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307 OF THE
7 8	CODE OR §§ 4-202 THROUG		A CRIME UNDER ARTICLE 27, § 445, § 446, OR § 481C OF THE , § 4-404, OR § 4-405 OF THE CRIMINAL LAW ARTICLE;
	FIREARM DURING AND IN OF THE CRIMINAL LAW A		USING, WEARING, CARRYING, OR TRANSPORTING OF A ION TO A DRUG TRAFFICKING CRIME UNDER § 5-621
12 13	ARTICLE;	11.	USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW
14 15	THE CRIMINAL LAW ARTI	12. CLE;	CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF
16 17	CRIMINAL LAW ARTICLE;	13.	ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE
18 19	2-206 OF THE CRIMINAL L		ATTEMPTED MURDER IN THE SECOND DEGREE UNDER § CICLE;
20 21	THE SECOND DEGREE UN		ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN 310 OR § 3-312 OF THE CRIMINAL LAW ARTICLE; OR
22 23	LAW ARTICLE;	16.	ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL
			ER ENACTED, That Section(s) 4-202.1 of notated Code of Maryland be renumbered to be

- SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
- 28 construed to apply only prospectively and may not be applied or interpreted to have 29 any effect on or application to any case filed before the effective date of this Act.
- SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect 30
- 31 October 1, 2002.