

HOUSE BILL 945

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2002 Regular Session
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By: **Chairman, Judiciary Committee (Departmental - Children, Youth and Families) and Delegates Conroy and Pitkin**

Introduced and read first time: February 8, 2002

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Office for Children, Youth, and Families - Codification of the Independent**
3 **Juvenile Justice Monitor**

4 FOR the purpose of altering the units that are included in the Office for Children,
5 Youth, and Families; codifying the Independent Monitor in the Office for
6 Children, Youth, and Families; establishing the Office of the Independent
7 Monitor within the Office for Children, Youth, and Families; requiring the Office
8 of the Independent Monitor to employ certain staff; providing for certain salaries
9 and expenses; requiring the Office of the Independent Monitor to set certain
10 salaries, qualifications, and standards in a certain manner; establishing certain
11 duties of the Office of the Independent Monitor; requiring certain reports to be
12 provided by the Office of the Independent Monitor; requiring the Department of
13 Juvenile Justice to cooperate with the Office of the Independent Monitor in a
14 certain manner; authorizing certain records and reports concerning child abuse
15 and neglect to be provided to the Office; defining certain terms; and generally
16 relating to the creation of the Office of the Independent Monitor within the
17 Office for Children, Youth, and Families.

18 BY repealing and reenacting, with amendments,
19 Article 49D - Office for Children, Youth, and Families
20 Section 1
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2001 Supplement)

23 BY adding to
24 Article 49D - Office for Children, Youth, and Families
25 Section 40 through 46, inclusive, to be under the new subtitle "Office of the
26 Independent Monitor"
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2001 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article 83C - Juvenile Justice

1 Section 2-118 and 2-119
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2001 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article 88A - Department of Human Resources
6 Section 6(b)
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2001 Supplement)

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

11 **Article 49D - Office for Children, Youth, and Families**

12 1.

13 (a) The Office for Children, Youth, and Families is created as part of the
14 Executive Department.

15 (b) The head of the Office is the Special Secretary for Children, Youth, and
16 Families. The Special Secretary is appointed by and serves at the pleasure of the
17 Governor and is directly responsible to him. The Special Secretary shall receive the
18 salary provided in the State budget.

19 (c) The Office shall have a Director and the assistants, fiscal analysts,
20 consultants, and employees provided in the State budget. The Special Secretary may
21 establish areas of responsibility within the Office and may designate staff as
22 necessary to fulfill the duties assigned to the Special Secretary.

23 (d) The following units are in the Office:

24 (1) Advisory Committee for Children, Youth, and Families;

25 (2) Children's Councils;

26 (3) Governor's Council on Adolescent Pregnancy;

27 (4) State Coordinating Council for Residential Placement of
28 Handicapped Children; [and]

29 (5) OFFICE OF THE INDEPENDENT MONITOR; AND

30 [(5)] (6) Other multiple agency initiatives for children, youth, and
31 families that are not reserved by law to another agency.

OFFICE OF THE INDEPENDENT MONITOR

1
2 40.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION AGAINST A CHILD
6 THAT RESULTS IN MORE SECURITY, ADDITIONAL OBLIGATIONS, OR LESS PERSONAL
7 FREEDOM.

8 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE JUSTICE.

9 (D) "FACILITY" MEANS:

10 (1) A RESIDENTIAL FACILITY OPERATED BY THE DEPARTMENT; AND

11 (2) A RESIDENTIAL FACILITY IDENTIFIED IN ARTICLE 83C, § 2-117 OF
12 THE CODE THAT IS OPERATED BY A PRIVATE ENTITY UNDER CONTRACT WITH THE
13 DEPARTMENT.

14 (E) (1) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON
15 BEHALF OF A CHILD DUE TO A CIRCUMSTANCE OR ACTION CONSIDERED TO BE
16 UNJUST.

17 (2) "GRIEVANCE" DOES NOT INCLUDE AN EMPLOYEE GRIEVANCE,
18 DISCIPLINARY APPEAL, OR COMPLAINT.

19 (F) "INDEPENDENT MONITOR" MEANS AN INDEPENDENT JUVENILE JUSTICE
20 MONITOR EMPLOYED BY THE OFFICE FOR CHILDREN, YOUTH, AND FAMILIES TO
21 DETERMINE WHETHER THE NEEDS OF CHILDREN UNDER THE JURISDICTION OF THE
22 DEPARTMENT ARE BEING MET IN COMPLIANCE WITH STATE LAW, THAT THEIR
23 RIGHTS ARE BEING UPHeld, AND THAT THEY ARE NOT BEING ABUSED.

24 (G) "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE
25 MONITOR.

26 (H) "SECRETARY" MEANS THE SECRETARY OF JUVENILE JUSTICE.

27 (I) "SUBCABINET" MEANS THE SUBCABINET FOR CHILDREN, YOUTH, AND
28 FAMILIES.

29 (J) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR CHILDREN,
30 YOUTH, AND FAMILIES.

31 41.

32 THERE IS AN OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR IN
33 THE OFFICE FOR CHILDREN, YOUTH, AND FAMILIES.

1 42.

2 (A) THE OFFICE SHALL INCLUDE:

3 (1) A FULL-TIME EXECUTIVE DIRECTOR; AND

4 (2) STAFF AS PROVIDED IN THE STATE BUDGET.

5 (B) ALL SALARIES FOR THE EXECUTIVE DIRECTOR AND INDEPENDENT
6 MONITORS AND EXPENSES FOR RENT, EQUIPMENT, SUPPLIES, AND GENERAL
7 OPERATING EXPENSES NECESSARY FOR THE WORK OF THE OFFICE SHALL BE AS
8 PROVIDED IN THE STATE BUDGET.

9 (C) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT,
10 THE OFFICE SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND STANDARDS OF
11 TRAINING AND EXPERIENCE FOR POSITIONS WITH THE OFFICE.

12 43.

13 THE OFFICE SHALL:

14 (1) EVALUATE AT EACH FACILITY:

15 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

16 (II) THE DEPARTMENT'S MONITORING PROCESS;

17 (III) THE TREATMENT OF AND SERVICES TO YOUTH; AND

18 (IV) THE PHYSICAL CONDITIONS OF THE FACILITY;

19 (2) REVIEW AND EVALUATE REPORTS OF DISCIPLINARY ACTIONS,
20 GRIEVANCES, AND GRIEVANCE DISPOSITIONS RELATING TO A CHILD IN A FACILITY;

21 (3) RECEIVE COPIES OF GRIEVANCES SUBMITTED TO THE DEPARTMENT;

22 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS
23 OF FACILITIES;

24 (5) RECEIVE AND REVIEW ALL INCIDENT REPORTS SUBMITTED TO THE
25 DEPARTMENT FROM FACILITIES; AND

26 (6) BE AVAILABLE TO ATTEND MEETINGS OF THE STATE ADVISORY
27 BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119.

1 44.

2 THE OFFICE MAY:

3 (1) REVIEW RELEVANT LAWS, POLICIES, PROCEDURES, AND JUVENILE
4 JUSTICE RECORDS RELATING TO INDIVIDUAL YOUTH AND CONDUCT INTERVIEWS
5 WITH STAFF, YOUTH, AND OTHERS ON REQUEST;

6 (2) REVIEW INVESTIGATIVE REPORTS PRODUCED BY THE DEPARTMENT
7 RELATING TO YOUTH IN FACILITIES; AND

8 (3) PARTICIPATE IN A CHILD PROTECTIVE SERVICES INVESTIGATION,
9 CONDUCTED UNDER TITLE 5, SUBTITLE 7 OF THE FAMILY LAW ARTICLE,
10 CONCERNING ANY ALLEGATION OF ABUSE OR NEGLECT WITHIN ANY ASSIGNED
11 FACILITY AND SHALL RECEIVE FINDINGS OF CHILD PROTECTIVE SERVICE
12 INVESTIGATIONS.

13 45.

14 THE DEPARTMENT SHALL:

15 (1) COOPERATE WITH THE INDEPENDENT MONITOR AND RESPOND TO
16 REQUESTS FOR INFORMATION WITHIN A REASONABLE TIME;

17 (2) SUBMIT INCIDENT REPORTS TO THE INDEPENDENT MONITOR; AND

18 (3) SUBMIT CORRECTIVE ACTION PLANS TO THE INDEPENDENT
19 MONITOR BASED UPON FINDINGS AND RECOMMENDATIONS MADE BY THE
20 INDEPENDENT MONITOR AS APPROVED BY THE SECRETARY.

21 46.

22 (A) THE OFFICE SHALL REPORT AT LEAST BIMONTHLY TO THE SUBCABINET,
23 SPECIAL SECRETARY, AND SECRETARY:

24 (1) ANY PROBLEM REGARDING THE CARE, SUPERVISION, AND
25 TREATMENT OF CHILDREN IN FACILITIES;

26 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS RELATED TO
27 DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND ALLEGED CASES OF
28 CHILD ABUSE AND NEGLECT; AND

29 (3) ALL OTHER FINDINGS RELATED TO THE MONITORING REQUIRED
30 UNDER THIS SUBTITLE.

31 (B) THE OFFICE SHALL REPORT QUARTERLY TO THE SPECIAL SECRETARY
32 AND THE SECRETARY ON:

33 (1) ALL ACTIVITIES OF THE OFFICE; AND

1 (2) ACTIONS TAKEN BY THE DEPARTMENT RESULTING FROM THE
2 FINDINGS AND RECOMMENDATIONS OF THE INDEPENDENT MONITOR, INCLUDING
3 THE DEPARTMENT'S RESPONSE.

4 (C) BEGINNING IN 2003, ON OR BEFORE NOVEMBER 30 OF EACH YEAR, THE
5 OFFICE SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE STATE
6 ADVISORY COUNCILS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE, THE
7 GOVERNOR, AND IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
8 ARTICLE, THE GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE OFFICE AND
9 THE ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS AND
10 RECOMMENDATIONS OF THE INDEPENDENT MONITOR.

11 **Article 83C - Juvenile Justice**

12 2-118.

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

15 (b) Subject to the provisions of Title 3, Subtitles 8 and 8A of the Courts Article,
16 the Department shall:

17 (1) Adopt regulations that set:

18 (i) Policies for admission, transfer, discharge, and aftercare
19 supervision; and

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

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

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

28 (1) Prohibit the use of locked door seclusion and restraints as
29 punishment, and describe the circumstances under which locked door seclusion and
30 restraints may be used; and

31 (2) Prohibit abuse of a child.

32 (d) The Department shall develop within each facility special programs that
33 are designed to meet the particular needs of its population.

34 (e) The Department shall develop and provide within each facility:

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

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

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

7 (F) THE DEPARTMENT SHALL COOPERATE WITH THE OFFICE OF THE
8 INDEPENDENT MONITOR ESTABLISHED UNDER ARTICLE 49D OF THE CODE BY:

9 (1) PROVIDING THE OFFICE OF THE INDEPENDENT MONITOR WITH
10 ACCESS TO FACILITIES, REPORTS, AND RECORDS RELATING TO INDIVIDUAL YOUTH
11 UPON REQUEST; AND

12 (2) ALLOWING THE INDEPENDENT MONITORS TO CONDUCT
13 INTERVIEWS WITH STAFF, YOUTH, AND ANY OTHER INDIVIDUALS UPON REQUEST.

14 2-119.

15 (a) With the consent of the State Advisory Board, the Secretary may establish
16 an advisory board for 1 or more facilities.

17 (b) Each board shall consist of individuals who the Secretary and the State
18 Advisory Board believe may be helpful in matters that relate to the effective operation
19 and improvement of the facilities.

20 (C) THE INDEPENDENT MONITOR ESTABLISHED UNDER ARTICLE 49D OF THE
21 CODE SHALL BE AVAILABLE TO ATTEND MEETINGS OF EACH ADVISORY BOARD.

22 **Article 88A - Department of Human Resources**

23 6.

24 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
25 Article, § 6A of this subtitle, and this section, all records and reports concerning child
26 abuse or neglect are confidential, and their unauthorized disclosure is a criminal
27 offense subject to the penalty set out in subsection (e) of this section. Reports or
28 records concerning child abuse or neglect:

29 (1) Shall be disclosed:

30 (i) Under a court order; or

31 (ii) Under an order of an administrative law judge, if the request for
32 disclosure concerns a case pending before the Office of Administrative Hearings and
33 provisions are made to comply with other State or federal confidentiality laws and to
34 protect the identity of the reporter or other person whose life or safety is likely to be
35 endangered by disclosure; and

- 1 (2) May be disclosed on request:
- 2 (i) To personnel of local or State departments of social services, law
3 enforcement personnel, and members of multidisciplinary case consultation teams,
4 who are investigating a report of known or suspected child abuse or neglect or who
5 are providing services to a child or family that is the subject of the report;
- 6 (ii) To local or State officials responsible for the administration of
7 child protective services or child care, foster care, and adoption licensing, approval, or
8 regulations as necessary to carry out their official functions;
- 9 (iii) To the State Council on Child Abuse and Neglect, the State
10 Citizens Review Board for Children, or their designees, or a child fatality review team
11 as necessary to carry out their official functions;
- 12 (iv) To a person who is the alleged child abuser or the person who is
13 suspected of child neglect if that person is responsible for the child's welfare and
14 provisions are made for the protection of the identity of the reporter or any other
15 person whose life or safety is likely to be endangered by disclosing the information;
- 16 (v) To a licensed practitioner who, or an agency, institution, or
17 program which is providing treatment or care to a child who is the subject of a report
18 of child abuse or neglect for a purpose relevant to the provision of the treatment or
19 care;
- 20 (vi) To a parent or other person who has permanent or temporary
21 care and custody of a child, if provisions are made for the protection of the identity of
22 the reporter or any other person whose life or safety is likely to be endangered by
23 disclosing the information;
- 24 (vii) To the appropriate public school superintendent for the purpose
25 of carrying out appropriate personnel or administrative actions following a report of
26 suspected child abuse involving a student committed by:
- 27 1. A public school employee in that school system;
- 28 2. An independent contractor who supervises or works
29 directly with students in that school system; or
- 30 3. An employee of an independent contractor, including a bus
31 driver or bus assistant, who supervises or works directly with students in that school
32 system; [or]
- 33 (viii) To the director of a licensed child care facility or licensed child
34 placement agency for the purpose of carrying out appropriate personnel actions
35 following a report of suspected child neglect or abuse alleged to have been committed
36 by an employee of the facility or agency and involving a child who is currently or who
37 was previously under that facility's or agency's care; OR

1 (IX) TO THE INDEPENDENT JUVENILE JUSTICE MONITOR
2 ESTABLISHED UNDER ARTICLE 49D OF THE CODE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2002.