

HOUSE BILL 961

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HB 474/01 - JUD

2002 Regular Session
2lr0429

By: **Delegates Montague, Doory, Getty, Stocksdale, Grosfeld, Brown, Pitkin, Dembrow, Franchot, McHale, Menes, Benson, McIntosh, Cole, Gladden, Phillips, V. Jones, Boschert, Owings, Hecht, Marriott, Zirkin, Hutchins, Proctor, D. Davis, Heller, R. Baker, Kagan, Hubbard, Leopold, O'Donnell, Sher, Turner, Rosenberg, Petzold, Nathan-Pulliam, Cane, Cryor, Patterson, Shriver, Conway, Shank, W. Baker, Cadden, Rawlings, Hurson, Valderrama, McKee, Bobo, Healey, and Eckardt**

Introduced and read first time: February 8, 2002
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: March 5, 2002

CHAPTER _____

1 AN ACT concerning

2 **Department of Juvenile Justice - Juvenile Justice System - Standards**

3 FOR the purpose of requiring the Department of Juvenile Justice to adopt regulations
4 that provide standards for certain juvenile detention facilities and for nonsecure
5 placement alternatives; requiring the Department to adopt a code of conduct for
6 personnel of the Department; requiring the Department to require private
7 agencies under contract with the Department to adopt a certain code of conduct
8 for private agency staff; requiring the Department to adopt regulations that
9 require certain facilities to provide certain programs; requiring the Department
10 to develop certain nonsecure alternatives for the placement of certain children;
11 altering the purposes of a certain juvenile causes subtitle; and generally relating
12 to the Department of Juvenile Justice and the Juvenile Justice System.

13 BY adding to
14 Article 83C - Juvenile Justice
15 Section 2-103(d)(7), 2-135, and 2-136
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article 83C - Juvenile Justice

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

4 BY repealing and reenacting, with amendments,
5 Article - Courts and Judicial Proceedings
6 Section 3-8A-02(a)
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2001 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-8A-19(c) and (d)(1) and (2)
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2001 Supplement)

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

16 **Article 83C - Juvenile Justice**

17 2-103.

18 (d) (7) THE DEPARTMENT SHALL:

19 (I) ADOPT A CODE OF CONDUCT FOR PERSONNEL OF THE
20 DEPARTMENT; AND

21 (II) REQUIRE PRIVATE AGENCIES UNDER CONTRACT WITH THE
22 DEPARTMENT TO ADOPT A CODE OF CONDUCT FOR PRIVATE AGENCY STAFF THAT IS
23 IN SUBSTANTIAL COMPLIANCE WITH THE CODE OF CONDUCT FOR PERSONNEL OF
24 THE DEPARTMENT.

25 2-118.

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

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

30 (1) Adopt regulations that set:

31 (i) Policies for admission, transfer, discharge, and aftercare
32 supervision; and

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

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

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

9 (1) Prohibit the use of locked door seclusion and restraints as
10 punishment, and describe the circumstances under which locked door seclusion and
11 restraints may be used; and

12 (2) Prohibit abuse of a child.

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

15 (e) The Department shall [develop and provide within] ADOPT REGULATIONS
16 THAT REQUIRE each facility TO PROVIDE:

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

19 (2) Alcohol abuse and drug abuse assessment services; [and]

20 (3) Either alcohol abuse and drug abuse referral services or an alcohol
21 abuse and drug abuse treatment program that has been certified in accordance with
22 the requirements of Title 8 of the Health - General Article; AND

23 (4) PROGRAMS THAT ENSURE A SAFE, HUMANE, AND CARING
24 ENVIRONMENT.

25 2-135.

26 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE
27 STANDARDS FOR JUVENILE DETENTION FACILITIES OPERATED BY THE
28 DEPARTMENT AND PRIVATE AGENCIES UNDER CONTRACT WITH THE DEPARTMENT.

29 (B) THE STANDARDS SHALL REFLECT THE CENTRAL PURPOSES OF JUVENILE
30 DETENTION, WHICH ARE TO:

31 (1) PROTECT THE PUBLIC;

32 (2) PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR
33 CHILDREN; AND

34 (3) PROVIDE ACCESS TO REQUIRED SERVICES FOR CHILDREN.

1 (C) THE STANDARDS SHALL BE CONSISTENT WITH THIS ARTICLE AND TITLE 3,
2 SUBTITLE 8A OF THE COURTS ARTICLE.

3 (D) THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

4 (1) A POLICY THAT ELIMINATES THE UNNECESSARY USE OF DETENTION
5 AND PLACES A PRIORITY ON THE USE OF DIVERSION AND APPROPRIATE NONSECURE
6 ALTERNATIVES;

7 (2) CRITERIA FOR THE PLACEMENT OF A CHILD IN A PARTICULAR
8 JUVENILE DETENTION FACILITY;

9 (3) POPULATION LIMITS FOR EACH JUVENILE DETENTION FACILITY
10 THAT MAY NOT BE EXCEEDED EXCEPT IN EMERGENCY CIRCUMSTANCES DURING
11 WHICH TIME STAFFING RATIOS AND LEVELS OF SERVICES SHALL BE MAINTAINED;

12 (4) SPECIFICATIONS FOR THE ARCHITECTURAL STRUCTURE OF A
13 JUVENILE DETENTION FACILITY;

14 (5) STAFF QUALIFICATIONS, TRAINING, INCLUDING TRAINING IN
15 RECOGNIZING AND REPORTING CHILD ABUSE AND NEGLECT, AND THE RATIO OF
16 STAFF TO CHILDREN IN A JUVENILE DETENTION FACILITY;

17 (6) THE RIGHTS OF CHILDREN IN A JUVENILE DETENTION FACILITY,
18 INCLUDING THE RIGHT TO PRIVACY, VISITORS, TELEPHONE USE, AND MAIL
19 DELIVERY;

20 (7) PROHIBITIONS AGAINST THE USE OF EXCESSIVE FORCE AGAINST A
21 CHILD; AND

22 (8) INTERNAL AUDITING AND MONITORING OF PROGRAMS AND
23 FACILITIES IN THE JUVENILE JUSTICE SYSTEM.

24 2-136.

25 THE DEPARTMENT SHALL DEVELOP AND ADOPT REGULATIONS PROVIDING
26 STANDARDS FOR NONSECURE ALTERNATIVES FOR THE PLACEMENT OF A CHILD
27 COMMITTED UNDER § 3-8A-19 OF THE COURTS ARTICLE.

28 **Article - Courts and Judicial Proceedings**

29 3-8A-02.

30 (a) The purposes of this subtitle are:

31 (1) To ensure that the Juvenile Justice System balances the following
32 objectives for children who have committed delinquent acts:

33 (i) Public safety and the protection of the community;

1 (ii) Accountability of the child to the victim and the community for
2 offenses committed; and

3 (iii) Competency and character development to assist children in
4 becoming responsible and productive members of society;

5 (2) To hold parents of children found to be delinquent responsible for the
6 child's behavior and accountable to the victim and the community;

7 (3) To hold parents of children found to be delinquent or in need of
8 supervision responsible, where possible, for remedying the circumstances that
9 required the court's intervention;

10 (4) To provide for the care, protection, and wholesome mental and
11 physical development of children coming within the provisions of this subtitle; and to
12 provide for a program of treatment, training, and rehabilitation consistent with the
13 child's best interests and the protection of the public interest;

14 (5) To conserve and strengthen the child's family ties and to separate a
15 child from his parents only when necessary for his welfare or in the interest of public
16 safety;

17 (6) If necessary to remove a child from his home, to secure for him
18 custody, care, and discipline as nearly as possible equivalent to that which should
19 have been given by his parents; [and]

20 (7) TO PROVIDE TO CHILDREN IN STATE CARE AND CUSTODY:

21 (I) A SAFE, HUMANE, AND CARING ENVIRONMENT; AND

22 (II) ACCESS TO REQUIRED SERVICES; AND

23 (8) To provide judicial procedures for carrying out the provisions of this
24 subtitle.

25 3-8A-19.

26 (c) The priorities in making a disposition are consistent with the purposes
27 specified in § 3-8A-02 of this subtitle.

28 (d) (1) In making a disposition on a petition under this subtitle, the court
29 may:

30 (i) Place the child on probation or under supervision in his own
31 home or in the custody or under the guardianship of a relative or other fit person,
32 upon terms the court deems appropriate;

33 (ii) Subject to the provisions of paragraph (2) of this subsection,
34 commit the child to the custody or under the guardianship of the Department of
35 Juvenile Justice, the Department of Health and Mental Hygiene, or a public or
36 licensed private agency on terms that the court considers appropriate to meet the

1 priorities set forth in § 3-8A-02 of this subtitle, including designation of the type of
2 facility where the child is to be accommodated, until custody or guardianship is
3 terminated with approval of the court or as required under § 3-8A-24 of this subtitle;
4 or

5 (iii) Order the child, parents, guardian, or custodian of the child to
6 participate in rehabilitative services that are in the best interest of the child and the
7 family.

8 (2) A child committed under paragraph (1)(ii) of this subsection may not
9 be accommodated in a facility that has reached budgeted capacity if a bed is available
10 in another comparable facility in the State, unless the placement to the facility that
11 has reached budgeted capacity has been recommended by the Department of Juvenile
12 Justice.

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