

HOUSE BILL 971

Unofficial Copy
E3

2002 Regular Session
(2r0956)

ENROLLED BILL

-- Judiciary and Ways and Means/Judicial Proceedings --

Introduced by **Delegates Montague, Doory, Getty, 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, Sher, Turner, Rosenberg, Petzold, Nathan-Pulliam, Cane, Cryor, Patterson, Shriver, Conway, Shank, W. Baker, Cadden, Rzepkowski, Hurson, Valderrama, McKee, Bobo, Healey, and Eckardt Eckardt, Conroy, Howard, and Rosso**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of altering the units ~~which~~ that are included in the Office for
5 Children, Youth, and Families; codifying the Independent Monitor in the Office
6 for Children, Youth, and Families; establishing the Office of the Independent
7 Juvenile Justice Monitor within the Office for Children, Youth, and Families;
8 requiring the Office to employ certain staff; providing for certain salaries and
9 expenses; requiring the Office to set certain salaries, qualifications, and
10 standards in a certain manner; establishing certain duties of the Office;

1 authorizing the Office to take certain actions; requiring certain reports to be
2 provided by the Office; requiring the Department of Juvenile Justice to adopt a
3 certain policy for addressing disciplinary actions and grievances; requiring the
4 Department to cooperate with the Office in a certain manner; requiring the
5 Department to respond to certain requests by the Office in a certain time period;
6 authorizing certain investigations; authorizing the disclosure of certain records
7 concerning child abuse and neglect to the Office under certain circumstances;
8 defining certain terms; and generally relating to the creation of the Office of the
9 Independent Monitor within the Office for Children, Youth, and Families.

10 BY repealing and reenacting, with amendments,
11 Article 49D - Office for Children, Youth, and Families
12 Section 1
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2001 Supplement)

15 BY adding to
16 Article 49D - Office for Children, Youth, and Families
17 Section 40 through 45, inclusive, to be under the new subtitle "Office of the
18 Independent Juvenile Justice Monitor"
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article 83C - Juvenile Justice
23 Section 2-118 *and* 2-119
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2001 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article 88A - Department of Human Resources
28 Section 6(b)
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 2001 Supplement)

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

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

34 1.

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

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

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

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

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

11 (2) Children's councils;

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

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

15 (5) OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR; AND

16 [(5)] (6) Other multiple agency initiatives for children, youth, and
 17 families that are not reserved by law to another agency.

18 OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR

19 40.

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 21 INDICATED.

22 (B) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION ~~OR ALTERATION~~
 23 ~~IN THE STATUS OR PLACEMENT OF~~ AGAINST A CHILD THAT RESULTS IN MORE
 24 SECURITY, ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM.

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

26 (D) "FACILITY" MEANS:

27 (1) A RESIDENTIAL FACILITY ~~FACILITIES~~ FACILITY OPERATED BY THE
 28 DEPARTMENT; AND

29 (2) A RESIDENTIAL FACILITY ~~FACILITIES~~ FACILITY OWNED BY THE DEPARTMENT
 30 BUT PRIVATELY OPERATED.

31 (E) (L) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON
 32 BEHALF OF A CHILD ~~BY A PARENT, GUARDIAN, OR ATTORNEY FOR THE CHILD~~ DUE TO
 33 A CIRCUMSTANCE OR ACTION CONSIDERED TO BE UNJUST.

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

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

8 (G) "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE
9 MONITOR.

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

11 (I) "SUBCABINET" MEANS THE SUBCABINET FOR CHILDREN, YOUTH, AND
12 FAMILIES.

13 (J) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY ~~FOR THE OFFICE~~
14 FOR CHILDREN, YOUTH, AND FAMILIES.

15 41.

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

18 42.

19 (A) THE OFFICE SHALL INCLUDE:

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

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

22 (B) ALL SALARIES FOR THE EXECUTIVE DIRECTOR AND INDEPENDENT
23 JUVENILE JUSTICE MONITORS AND EXPENSES FOR RENT, EQUIPMENT, SUPPLIES,
24 AND GENERAL OPERATING MATERIALS EXPENSES NECESSARY FOR THE WORK OF
25 THE OFFICE SHALL BE AS PROVIDED IN THE STATE BUDGET.

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

29 43.

30 THE OFFICE SHALL:

31 (1) EVALUATE AT EACH FACILITY:

32 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

- 1 (II) THE DEPARTMENT'S MONITORING ~~AND INTERNAL~~
 2 ~~INVESTIGATIVE PROCESSES~~ PROCESS;
- 3 (III) THE TREATMENT OF AND SERVICES TO YOUTH;
- 4 (IV) THE PHYSICAL CONDITIONS OF THE FACILITY; AND
- 5 (V) THE ADEQUACY OF STAFFING;
- 6 (2) REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES,
 7 AND GRIEVANCE DISPOSITIONS RECEIVED FROM EACH FACILITY AND ALTERATIONS
 8 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULT IN MORE SECURITY,
 9 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM;
- 10 (3) RECEIVE COPIES OF THE GRIEVANCES SUBMITTED TO THE
 11 DEPARTMENT;
- 12 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS
 13 OF FACILITIES;
- 14 (5) RECEIVE AND REVIEW ALL INCIDENT REPORTS SUBMITTED TO THE
 15 DEPARTMENT FROM ~~RESIDENTIAL~~ FACILITIES; ~~AND~~
- 16 (6) RECEIVE REPORTS OF THE FINDINGS OF CHILD PROTECTIVE
 17 SERVICES ~~RELATING TO~~ INVESTIGATIONS OF ALLEGATIONS OF ABUSE OR NEGLECT
 18 OF A CHILD IN A FACILITY; AND
- 19 (7) BE AVAILABLE TO ATTEND MEETINGS OF THE STATE ADVISORY
 20 BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE.
- 21 44.
- 22 THE OFFICE ~~OF THE INDEPENDENT JUVENILE JUSTICE MONITOR~~ MAY:
- 23 (1) REVIEW RELEVANT LAWS, POLICIES, PROCEDURES, AND JUVENILE
 24 JUSTICE RECORDS, INCLUDING RECORDS RELATING TO INDIVIDUAL YOUTH ~~OR~~
 25 ~~STAFF~~;
- 26 (2) ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND
 27 OTHERS;
- 28 (3) REVIEW INVESTIGATIVE REPORTS PRODUCED BY THE DEPARTMENT
 29 RELATING TO YOUTH IN FACILITIES; AND
- 30 (4) PARTICIPATE, WITHIN THE CONTEXT OF THE LOCAL
 31 DEPARTMENT OF SOCIAL SERVICES' MULTIDISCIPLINARY TEAM PROCESS, IN AN A
 32 CHILD PROTECTIVE SERVICES INVESTIGATION CONDUCTED UNDER TITLE 5,
 33 SUBTITLE 7 OF THE FAMILY LAW ARTICLE CONCERNING ANY ALLEGATION OF ABUSE
 34 OR NEGLECT WITHIN ANY ASSIGNED FACILITY.

1 45.

2 (A) THE OFFICE SHALL REPORT IN A TIMELY MANNER TO THE SUBCABINET,
3 SPECIAL SECRETARY, THE SECRETARY, AND IN ACCORDANCE WITH § 2-1246 OF THE
4 STATE GOVERNMENT ARTICLE, THE SPEAKER OF THE HOUSE OF DELEGATES AND
5 THE PRESIDENT OF THE SENATE:

6 (1) KNOWLEDGE OF ANY PROBLEM REGARDING THE CARE,
7 SUPERVISION, AND TREATMENT OF CHILDREN IN FACILITIES;

8 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS, RELATED TO THE
9 INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND
10 ALLEGED CASES OF CHILD ABUSE AND NEGLECT; AND

11 (3) ALL OTHER FINDINGS AND ACTIONS RELATED TO THE MONITORING
12 REQUIRED UNDER THIS SUBTITLE.

13 (B) (1) THE OFFICE SHALL REPORT QUARTERLY TO THE SPECIAL
14 SECRETARY AND THE SECRETARY.

15 (2) A COPY OF THE REPORT SHALL BE PROVIDED TO THE STATE
16 ADVISORY BOARD FOR JUVENILE JUSTICE AND, IN ACCORDANCE WITH § 2-1246 OF
17 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

18 (3) THE REPORT SHALL INCLUDE:

19 (I) ALL ACTIVITIES OF THE OFFICE; ~~AND~~

20 (II) ACTIONS TAKEN BY THE DEPARTMENT ~~IN RESPONSE TO~~
21 ~~RESULTING FROM THE~~ FINDINGS AND RECOMMENDATIONS ~~PRESENTED IN REPORTS~~
22 ~~REQUIRED UNDER THIS SECTION~~ OF THE INDEPENDENT MONITOR, INCLUDING THE
23 DEPARTMENT'S RESPONSE; AND

24 (III) A SUMMARY OF ANY VIOLATIONS OF THE STANDARDS AND
25 REGULATIONS OF THE DEPARTMENT THAT REMAINED UNABATED FOR 30 DAYS OR
26 MORE DURING THE REPORTING PERIOD.

27 ~~(C) (1) THE OFFICE SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE~~
28 ~~STATE GOVERNMENT ARTICLE, TO THE SPEAKER OF THE HOUSE OF DELEGATES AND~~
29 ~~PRESIDENT OF THE SENATE ANY VIOLATIONS OF THE STANDARDS AND~~
30 ~~REGULATIONS OF THE DEPARTMENT THAT HAVE BEEN UNABATED FOR 30 DAYS OR~~
31 ~~MORE.~~

32 ~~(2) THE SPEAKER OF THE HOUSE OF DELEGATES AND THE PRESIDENT~~
33 ~~OF THE SENATE MAY REFER THE REPORT TO THE APPROPRIATE COMMITTEE FOR A~~
34 ~~HEARING.~~

35 ~~(D)~~ (C) BEGINNING IN 2003, ON OR BEFORE NOVEMBER 30 OF EACH YEAR,
36 THE OFFICE SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE
37 STATE ADVISORY COUNCILS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE

1 CODE, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
2 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE
3 OFFICE AND THE ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS
4 AND RECOMMENDATIONS ~~PRESENTED IN THE REPORTS REQUIRED UNDER THIS~~
5 ~~SECTION~~ OF THE INDEPENDENT MONITOR.

6 **Article 83C - Juvenile Justice**

7 2-118.

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

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

12 (1) Adopt regulations that set:

13 (i) Policies for admission, transfer, discharge, and aftercare
14 supervision; and

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

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

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

23 (1) Prohibit the use of locked door seclusion and restraints as
24 punishment, and describe the circumstances under which locked door seclusion and
25 restraints may be used; and

26 (2) Prohibit abuse of a child.

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

29 (2) THE POLICY SHALL:

30 (I) REQUIRE PREPARATION OF A WRITTEN REPORT OF ANY
31 DISCIPLINARY ACTION TAKEN AGAINST A CHILD OR ANY GRIEVANCE WHICH SHALL
32 BE FORWARDED TO THE ADMINISTRATIVE HEAD OF THE FACILITY;

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

1 (III) REQUIRE THE DEPARTMENT TO FORWARD IN A TIMELY
 2 MANNER ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES, AND GRIEVANCE
 3 DISPOSITIONS FROM EACH FACILITY TO THE OFFICE OF THE INDEPENDENT
 4 JUVENILE JUSTICE MONITOR UNDER ARTICLE 49D OF THE CODE.

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

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

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

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

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

14 (G) THE DEPARTMENT SHALL COOPERATE WITH THE OFFICE OF THE
 15 INDEPENDENT JUVENILE JUSTICE MONITOR ESTABLISHED ~~IN~~ UNDER ARTICLE 49D
 16 OF THE CODE BY:

17 (1) PROVIDING THE OFFICE WITH ACCESS TO ALL FACILITIES, REPORTS,
 18 AND RECORDS RELATING TO INDIVIDUAL YOUTH ~~OR STAFF~~ UPON REQUEST;

19 (2) ALLOWING THE INDEPENDENT JUVENILE JUSTICE MONITORS TO
 20 CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND ANY OTHER INDIVIDUALS UPON
 21 REQUEST; AND

22 (3) SUBMITTING CORRECTIVE ACTION PLANS AND INCIDENT REPORTS
 23 TO THE OFFICE IN RESPONSE TO FINDINGS AND RECOMMENDATIONS MADE BY THE
 24 INDEPENDENT JUVENILE JUSTICE MONITORS REGARDING A FACILITY.

25 (H) (1) THE DEPARTMENT SHALL RESPOND TO REQUESTS FOR
 26 INFORMATION PERTAINING TO A FACILITY FROM AN INDEPENDENT JUVENILE
 27 JUSTICE MONITOR WITHIN ~~7~~ 30 DAYS OF THE DATE OF THE REQUEST.

28 (2) IF THE DEPARTMENT DOES NOT RESPOND TO A REQUEST FOR
 29 INFORMATION, THE MONITOR MAY ~~INVESTIGATE~~ CONDUCT A REASONABLE
 30 INVESTIGATION RELATING TO THE ORIGINAL REQUEST FOR INFORMATION.

31 2-119.

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

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

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

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

4 6.

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

10 (1) Shall be disclosed:

11 (i) Under a court order; or

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

17 (2) May be disclosed on request:

18 (i) To personnel of local or State departments of social services, law
19 enforcement personnel, and members of multidisciplinary case consultation teams,
20 who are investigating a report of known or suspected child abuse or neglect or who
21 are providing services to a child or family that is the subject of the report;

22 (ii) To local or State officials responsible for the administration of
23 child protective services or child care, foster care, and adoption licensing, approval, or
24 regulations as necessary to carry out their official functions;

25 (iii) To the State Council on Child Abuse and Neglect, the State
26 Citizens Review Board for Children, or their designees, or a child fatality review team
27 as necessary to carry out their official functions;

28 (iv) To a person who is the alleged child abuser or the person who is
29 suspected of child neglect if that person is responsible for the child's welfare and
30 provisions are made for the protection of the identity of the reporter or any other
31 person whose life or safety is likely to be endangered by disclosing the information;

32 (v) To a licensed practitioner who, or an agency, institution, or
33 program which, is providing treatment or care to a child who is the subject of a report
34 of child abuse or neglect for a purpose relevant to the provision of the treatment or
35 care;

36 (vi) To a parent or other person who has permanent or temporary
37 care and custody of a child, if provisions are made for the protection of the identity of

1 the reporter or any other person whose life or safety is likely to be endangered by
2 disclosing the information;

3 (vii) To the appropriate public school superintendent for the purpose
4 of carrying out appropriate personnel or administrative actions following a report of
5 suspected child abuse involving a student committed by:

6 1. A public school employee in that school system;

7 2. An independent contractor who supervises or works
8 directly with students in that school system; or

9 3. An employee of an independent contractor, including a bus
10 driver or bus assistant, who supervises or works directly with students in that school
11 system; [or]

12 (viii) To the director of a licensed child care facility or licensed child
13 placement agency for the purpose of carrying out appropriate personnel actions
14 following a report of suspected child neglect or abuse alleged to have been committed
15 by an employee of the facility or agency and involving a child who is currently or who
16 was previously under that facility's or agency's care; OR

17 (IX) TO THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE
18 MONITOR ESTABLISHED UNDER ARTICLE 49D OF THE CODE.

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