
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**

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 - Office of the Independent Juvenile**
3 **Justice Monitor**

4 FOR the purpose of altering the units which are included in the Office for Children,
5 Youth, and Families; establishing the Office of the Independent Juvenile Justice
6 Monitor within the Office for Children, Youth, and Families; requiring the Office
7 to employ certain staff; providing for certain salaries and expenses; requiring
8 the Office to set certain salaries, qualifications, and standards in a certain
9 manner; establishing certain duties of the Office; authorizing the Office to take
10 certain actions; requiring certain reports to be provided by the Office; requiring
11 the Department of Juvenile Justice to adopt a certain policy for addressing
12 disciplinary actions and grievances; requiring the Department to cooperate with
13 the Office in a certain manner; requiring the Department to respond to certain
14 requests by the Office in a certain time period; authorizing certain
15 investigations; authorizing the disclosure of certain records concerning child
16 abuse and neglect to the Office under certain circumstances; defining certain
17 terms; and generally relating to the creation of the Office of the Independent
18 Monitor within the Office for Children, Youth, and Families.

19 BY repealing and reenacting, with amendments,
20 Article 49D - Office for Children, Youth, and Families
21 Section 1
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2001 Supplement)

24 BY adding to
25 Article 49D - Office for Children, Youth, and Families
26 Section 40 through 45, inclusive, to be under the new subtitle "Office of the

1 Independent Juvenile Justice Monitor"
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2001 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article 83C - Juvenile Justice
6 Section 2-118
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2001 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article 88A - Department of Human Resources
11 Section 6(b)
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 49D - Office for Children, Youth, and Families**

17 1.

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

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

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

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

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

30 (2) Children's councils;

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

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

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

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 JUVENILE JUSTICE MONITORS AND EXPENSES FOR RENT, EQUIPMENT, SUPPLIES,
7 AND GENERAL OPERATING MATERIALS NECESSARY FOR THE WORK OF THE OFFICE
8 SHALL BE AS 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 AND INTERNAL
17 INVESTIGATIVE PROCESSES;

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

19 (IV) THE PHYSICAL CONDITIONS OF THE FACILITY; AND

20 (V) THE ADEQUACY OF STAFFING;

21 (2) REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES,
22 AND GRIEVANCE DISPOSITIONS RECEIVED FROM EACH FACILITY;

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

25 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS
26 OF FACILITIES;

27 (5) RECEIVE AND REVIEW ALL INCIDENT REPORTS SUBMITTED TO THE
28 DEPARTMENT FROM RESIDENTIAL FACILITIES; AND

29 (6) RECEIVE FINDINGS OF CHILD PROTECTIVE SERVICES RELATING TO
30 ALLEGATIONS OF ABUSE OR NEGLECT OF A CHILD IN A FACILITY.

1 44.

2 THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR MAY:

3 (1) REVIEW RELEVANT LAWS, POLICIES, PROCEDURES, AND JUVENILE
4 JUSTICE RECORDS, INCLUDING RECORDS RELATING TO INDIVIDUAL YOUTH OR
5 STAFF;

6 (2) ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND
7 OTHERS; AND

8 (3) PARTICIPATE IN AN INVESTIGATION CONCERNING ANY ALLEGATION
9 OF ABUSE OR NEGLECT WITHIN ANY ASSIGNED FACILITY.

10 45.

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

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

17 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS, RELATED TO THE
18 INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND
19 ALLEGED CASES OF CHILD ABUSE AND NEGLECT; AND

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

22 (B) (1) THE OFFICE SHALL REPORT QUARTERLY TO THE SPECIAL
23 SECRETARY AND THE SECRETARY.

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

27 (3) THE REPORT SHALL INCLUDE:

28 (I) ALL ACTIVITIES OF THE OFFICE; AND

29 (II) ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO
30 FINDINGS AND RECOMMENDATIONS PRESENTED IN REPORTS REQUIRED UNDER
31 THIS SECTION.

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

1 (2) THE SPEAKER OF THE HOUSE OF DELEGATES AND THE PRESIDENT
2 OF THE SENATE MAY REFER THE REPORT TO THE APPROPRIATE COMMITTEE FOR A
3 HEARING.

4 (D) BEGINNING IN 2003, ON OR BEFORE NOVEMBER 30 OF EACH YEAR, THE
5 OFFICE SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE
6 GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
7 ARTICLE, THE GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE OFFICE AND
8 THE ACTIONS TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS AND
9 RECOMMENDATIONS PRESENTED IN THE REPORTS REQUIRED UNDER THIS SECTION.

10 **Article 83C - Juvenile Justice**

11 2-118.

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

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

16 (1) Adopt regulations that set:

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

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

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

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

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

30 (2) Prohibit abuse of a child.

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

33 (2) THE POLICY SHALL:

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

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

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

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

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

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

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

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

19 (G) THE DEPARTMENT SHALL COOPERATE WITH THE OFFICE OF THE
20 INDEPENDENT JUVENILE JUSTICE MONITOR ESTABLISHED IN ARTICLE 49D OF THE
21 CODE BY:

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

24 (2) ALLOWING THE INDEPENDENT JUVENILE JUSTICE MONITORS TO
25 CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND ANY OTHER INDIVIDUALS UPON
26 REQUEST; AND

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

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

33 (2) IF THE DEPARTMENT DOES NOT RESPOND TO A REQUEST FOR
34 INFORMATION, THE MONITOR MAY INVESTIGATE.

Article 88A - Department of Human Resources

2 6.

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

8 (1) Shall be disclosed:

9 (i) Under a court order; or

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

15 (2) May be disclosed on request:

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

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

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

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

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

34 (vi) To a parent or other person who has permanent or temporary
35 care and custody of a child, if provisions are made for the protection of the identity of
36 the reporter or any other person whose life or safety is likely to be endangered by
37 disclosing the information;

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

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

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

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

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

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

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