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Assigned to: Judiciary and Ways and Means

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 18, 2002

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CHAPTER \_\_\_\_\_

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

1 Annotated Code of Maryland  
2 (1998 Replacement Volume and 2001 Supplement)

3 BY adding to  
4 Article 49D - Office for Children, Youth, and Families  
5 Section 40 through 45, inclusive, to be under the new subtitle "Office of the  
6 Independent Juvenile Justice Monitor"  
7 Annotated Code of Maryland  
8 (1998 Replacement Volume and 2001 Supplement)

9 BY repealing and reenacting, with amendments,  
10 Article 83C - Juvenile Justice  
11 Section 2-118  
12 Annotated Code of Maryland  
13 (1998 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article 88A - Department of Human Resources  
16 Section 6(b)  
17 Annotated Code of Maryland  
18 (1998 Replacement Volume and 2001 Supplement)

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

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

22 1.

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

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

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

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

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

35 (2) Children's councils;

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

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

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

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

7 OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR

8 40.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

11 (B) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION OR ALTERATION  
12 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULTS IN MORE SECURITY,  
13 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM.

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

15 (D) "FACILITY" MEANS:

16 (1) RESIDENTIAL FACILITIES OPERATED BY THE DEPARTMENT; AND

17 (2) RESIDENTIAL FACILITIES OWNED BY THE DEPARTMENT BUT  
18 PRIVATELY OPERATED.

19 (E) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON BEHALF OF A  
20 CHILD BY A PARENT, GUARDIAN, OR ATTORNEY FOR THE CHILD DUE TO A  
21 CIRCUMSTANCE OR ACTION CONSIDERED TO BE UNJUST.

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

27 (G) "OFFICE" MEANS THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE  
28 MONITOR.

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

30 (I) "SUBCABINET" MEANS THE SUBCABINET FOR CHILDREN, YOUTH, AND  
31 FAMILIES.

32 (J) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR THE OFFICE  
33 FOR CHILDREN, YOUTH, AND FAMILIES.

1 41.

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

4 42.

5 (A) THE OFFICE SHALL INCLUDE:

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

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

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

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

15 43.

16 THE OFFICE SHALL:

17 (1) EVALUATE AT EACH FACILITY:

18 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

19 (II) THE DEPARTMENT'S MONITORING AND INTERNAL  
20 INVESTIGATIVE PROCESSES;

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

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

23 (V) THE ADEQUACY OF STAFFING;

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

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

28 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS  
29 OF FACILITIES;

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

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

3 44.

4     THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR MAY:

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

8           (2)     ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND  
9 OTHERS; AND

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

12 45.

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

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

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

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

24     (B)     (1)     THE OFFICE SHALL REPORT QUARTERLY TO THE SPECIAL  
25 SECRETARY AND THE SECRETARY.

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

29           (3)     THE REPORT SHALL INCLUDE:

30                   (I)     ALL ACTIVITIES OF THE OFFICE; AND

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

34     (C)     (1)     THE OFFICE SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE  
35 STATE GOVERNMENT ARTICLE, TO THE SPEAKER OF THE HOUSE OF DELEGATES AND

1 PRESIDENT OF THE SENATE ANY VIOLATIONS OF THE STANDARDS AND  
2 REGULATIONS OF THE DEPARTMENT THAT HAVE BEEN UNABATED FOR 30 DAYS OR  
3 MORE.

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

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

### 13 **Article 83C - Juvenile Justice**

14 2-118.

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

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

19 (1) Adopt regulations that set:

20 (i) Policies for admission, transfer, discharge, and aftercare  
21 supervision; and

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

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

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

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

33 (2) Prohibit abuse of a child.

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

1 (2) THE POLICY SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) IF THE DEPARTMENT DOES NOT RESPOND TO A REQUEST FOR  
35 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.