
By: **Senator Frosh**

Introduced and read first time: February 5, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the jurisdiction of the juvenile court to include
4 proceedings involving certain children alleged to have committed certain acts;
5 repealing provisions of law authorizing a court exercising criminal jurisdiction
6 to transfer jurisdiction to the juvenile court under certain circumstances;
7 altering certain time frames for conducting certain hearings; altering certain
8 procedures for waiver of juvenile court jurisdiction; establishing a certain
9 rebuttable presumption; making certain conforming changes; providing for the
10 application of this Act; and generally relating to the jurisdiction of the juvenile
11 court.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 3-8A-03, 3-8A-06, and 3-8A-15
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2003 Supplement)

17 BY repealing
18 Article - Criminal Procedure
19 Section 4-202
20 Annotated Code of Maryland
21 (2001 Volume and 2003 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article - Criminal Procedure
24 Section 10-213
25 Annotated Code of Maryland
26 (2001 Volume and 2003 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Criminal Procedure
29 Section 10-215(a)(21) and 10-216(d)

1 Annotated Code of Maryland
2 (2001 Volume and 2003 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Education
5 Section 7-303
6 Annotated Code of Maryland
7 (2001 Replacement Volume and 2003 Supplement)

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

10 **Article - Courts and Judicial Proceedings**

11 3-8A-03.

12 (a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court
13 has exclusive original jurisdiction over:

14 (1) A child who is alleged to be delinquent or in need of supervision or
15 who has received a citation for a violation;

16 (2) Except as provided in subsection [(d)(6)] (D)(3) of this section, a peace
17 order proceeding in which the respondent is a child; and

18 (3) Proceedings arising under the Interstate Compact on Juveniles.

19 (b) The court has concurrent jurisdiction over proceedings against an adult for
20 the violation of § 3-8A-30 of this subtitle. However, the court may waive its
21 jurisdiction under this subsection upon its own motion or upon the motion of any
22 party to the proceeding, if charges against the adult arising from the same incident
23 are pending in the criminal court. Upon motion by either the State's Attorney or the
24 adult charged under § 3-8A-30 of this subtitle, the court shall waive its jurisdiction,
25 and the adult shall be tried in the criminal court according to the usual criminal
26 procedure.

27 (c) The jurisdiction of the court is concurrent with that of the District Court in
28 any criminal case arising under the compulsory public school attendance laws of this
29 State.

30 (d) The court does not have jurisdiction over:

31 (1) [A child at least 14 years old alleged to have done an act which, if
32 committed by an adult, would be a crime punishable by death or life imprisonment, as
33 well as all other charges against the child arising out of the same incident, unless an
34 order removing the proceeding to the court has been filed under § 4-202 of the
35 Criminal Procedure Article;

1 (2)] A child at least 16 years old alleged to have done an act in violation of
2 any provision of the Transportation Article or other traffic law or ordinance, except an
3 act that prescribes a penalty of incarceration;

4 [(3)] (2) A child at least 16 years old alleged to have done an act in
5 violation of any provision of law, rule, or regulation governing the use or operation of
6 a boat, except an act that prescribes a penalty of incarceration; OR

7 [(4) A child at least 16 years old alleged to have committed any of the
8 following crimes, as well as all other charges against the child arising out of the same
9 incident, unless an order removing the proceeding to the court has been filed under §
10 4-202 of the Criminal Procedure Article:

- 11 (i) Abduction;
- 12 (ii) Kidnapping;
- 13 (iii) Second degree murder;
- 14 (iv) Manslaughter, except involuntary manslaughter;
- 15 (v) Second degree rape;
- 16 (vi) Robbery under § 3-403 of the Criminal Law Article;
- 17 (vii) Second degree sexual offense under § 3-306(a)(1) of the
18 Criminal Law Article;
- 19 (viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal
20 Law Article;
- 21 (ix) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of
22 the Public Safety Article;
- 23 (x) Using, wearing, carrying, or transporting a firearm during and
24 in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
- 25 (xi) Use of a firearm under § 5-622 of the Criminal Law Article;
- 26 (xii) Carjacking or armed carjacking under § 3-405 of the Criminal
27 Law Article;
- 28 (xiii) Assault in the first degree under § 3-202 of the Criminal Law
29 Article;
- 30 (xiv) Attempted murder in the second degree under § 2-206 of the
31 Criminal Law Article;
- 32 (xv) Attempted rape in the second degree under § 3-310 of the
33 Criminal Law Article or attempted sexual offense in the second degree under § 3-312
34 of the Criminal Law Article;

1 (xvi) Attempted robbery under § 3-403 of the Criminal Law Article;
2 or

3 (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the
4 Criminal Law Article;

5 (5) A child who previously has been convicted as an adult of a felony and
6 is subsequently alleged to have committed an act that would be a felony if committed
7 by an adult, unless an order removing the proceeding to the court has been filed
8 under § 4-202 of the Criminal Procedure Article; or]

9 [(6)] (3) A peace order proceeding in which the victim, as defined in §
10 3-8A-01(w)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501
11 of the Family Law Article.

12 (e) If the child is charged with two or more violations of the Maryland Vehicle
13 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of
14 the same incident and which would result in the child being brought before both the
15 court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction
16 over all of the charges.

17 3-8A-06.

18 (a) The court may waive the exclusive jurisdiction conferred by § 3-8A-03 of
19 this subtitle with respect to a petition alleging delinquency by:

20 (1) A child who is 15 years old or older; or

21 (2) A child who has not reached his 15th birthday, but who is charged
22 with committing an act which if committed by an adult, would be punishable by death
23 or life imprisonment.

24 (b) (1) The court may not waive its jurisdiction under this section until after
25 it has conducted a waiver hearing, held prior to an adjudicatory hearing and after
26 notice has been given to all parties as prescribed by the Maryland Rules. The waiver
27 hearing is solely to determine whether the court should waive its jurisdiction.

28 (2) IF A CHILD IS IN DETENTION UNDER § 3-8A-15 OF THIS SUBTITLE,
29 THE COURT SHALL HOLD ANY WAIVER HEARING NO LATER THAN 15 DAYS AFTER THE
30 DATE A PETITION FOR DETENTION IS GRANTED.

31 (c) (1) Notice of the waiver hearing shall be given to a victim as provided
32 under § 11-104 of the Criminal Procedure Article.

33 (2) (i) A victim may submit a victim impact statement to the court as
34 provided in § 11-402 of the Criminal Procedure Article.

35 (ii) This paragraph does not preclude a victim who has not filed a
36 notification request form under § 11-104 of the Criminal Procedure Article from
37 submitting a victim impact statement to the court.

1 (iii) The court may consider a victim impact statement in
2 determining whether to waive jurisdiction under this section.

3 (d) (1) The court may not waive its jurisdiction under this section unless it
4 determines, from a preponderance of the evidence presented at the hearing, that the
5 child is an unfit subject for juvenile rehabilitative measures.

6 (2) THERE IS A REBUTTABLE PRESUMPTION THAT THE CHILD IS AN
7 UNFIT SUBJECT FOR REHABILITATIVE MEASURES IF THE CHILD:

8 (I) IS AT LEAST 14 YEARS OLD AND IS ALLEGED TO HAVE
9 COMMITTED AN ACT WHICH, IF COMMITTED BY AN ADULT, WOULD BE A CRIME
10 PUNISHABLE BY DEATH OR LIFE IMPRISONMENT;

11 (II) IS AT LEAST 16 YEARS OLD AND IS ALLEGED TO HAVE
12 COMMITTED ANY OF THE FOLLOWING CRIMES:

- 13 1. ABDUCTION;
- 14 2. KIDNAPPING;
- 15 3. SECOND DEGREE MURDER;
- 16 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
17 MANSLAUGHTER;
- 18 5. SECOND DEGREE RAPE;
- 19 6. ROBBERY UNDER § 3-403 OF THE CRIMINAL LAW ARTICLE;
- 20 7. SECOND DEGREE SEXUAL OFFENSE UNDER § 3-306(A)(1)
21 OF THE CRIMINAL LAW ARTICLE;
- 22 8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307(A)(1) OF
23 THE CRIMINAL LAW ARTICLE;
- 24 9. A CRIME IN VIOLATION OF § 5-133, § 5-134, § 5-138, OR §
25 5-203 OF THE PUBLIC SAFETY ARTICLE;
- 26 10. USING, WEARING, CARRYING, OR TRANSPORTING A
27 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER § 5-621
28 OF THE CRIMINAL LAW ARTICLE;
- 29 11. USE OF A FIREARM UNDER § 5-622 OF THE CRIMINAL LAW
30 ARTICLE;
- 31 12. CARJACKING OR ARMED CARJACKING UNDER § 3-405 OF
32 THE CRIMINAL LAW ARTICLE;
- 33 13. ASSAULT IN THE FIRST DEGREE UNDER § 3-202 OF THE
34 CRIMINAL LAW ARTICLE;

1 14. ATTEMPTED MURDER IN THE SECOND DEGREE UNDER §
2 2-206 OF THE CRIMINAL LAW ARTICLE;

3 15. ATTEMPTED RAPE IN THE SECOND DEGREE UNDER § 3-310
4 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTED SEXUAL OFFENSE IN THE SECOND
5 DEGREE UNDER § 3-312 OF THE CRIMINAL LAW ARTICLE;

6 16. ATTEMPTED ROBBERY UNDER § 3-403 OF THE CRIMINAL
7 LAW ARTICLE; OR

8 17. A VIOLATION OF § 4-203, § 4-204, § 4-404, OR § 4-405 OF THE
9 CRIMINAL LAW ARTICLE; OR

10 (III) PREVIOUSLY HAS BEEN CONVICTED AS AN ADULT OF A FELONY
11 AND IS ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD BE A FELONY IF
12 COMMITTED BY AN ADULT.

13 (3) For purposes of determining whether to waive its jurisdiction under
14 this section, the court shall assume that the child committed the delinquent act
15 alleged.

16 (e) In making its determination, the court shall consider the following criteria
17 individually and in relation to each other on the record:

18 (1) Age of the child;

19 (2) Mental and physical condition of the child;

20 (3) The child's amenability to treatment in any institution, facility, or
21 program available to delinquents;

22 (4) The nature of the offense and the child's alleged participation in it;
23 and

24 (5) The public safety.

25 (f) If jurisdiction is waived under this section, the court shall order the child
26 held for trial under the regular procedures of the court which would have jurisdiction
27 over the offense if committed by an adult. The petition alleging delinquency shall be
28 considered a charging document for purposes of detaining the child pending a bail
29 hearing.

30 (g) An order waiving jurisdiction is interlocutory.

31 (h) If the court has once waived its jurisdiction with respect to a child in
32 accordance with this section, and that child is subsequently brought before the court
33 on another charge of delinquency, the court may waive its jurisdiction in the
34 subsequent proceeding after summary review.

1 3-8A-15.

2 (a) Only the court or an intake officer may authorize detention, community
3 detention, or shelter care for a child who may be in need of supervision or delinquent.

4 (b) If a child is taken into custody under this subtitle, the child may be placed
5 in detention or community detention prior to a hearing if:

6 (1) Such action is required to protect the child or others; or

7 (2) The child is likely to leave the jurisdiction of the court.

8 (c) A child taken into custody under this subtitle may be placed in emergency
9 shelter care or community detention prior to a hearing if:

10 (1) (i) Such action is required to protect the child or person and
11 property of others;

12 (ii) The child is likely to leave the jurisdiction of the court; or

13 (iii) There is no parent, guardian, or custodian or other person able
14 to provide supervision and care for the child and return the child to the court when
15 required; and

16 (2) (i) 1. Continuation of the child in the child's home is contrary to
17 the welfare of the child; and

18 2. Removal of the child from the child's home is reasonable
19 under the circumstances due to an alleged emergency situation and in order to
20 provide for the safety of the child; or

21 (ii) 1. Reasonable but unsuccessful efforts have been made to
22 prevent or eliminate the need for removal from the child's home; and

23 2. As appropriate, reasonable efforts are being made to
24 return the child to the child's home.

25 (d) (1) If the child is not released, the intake officer or the official who
26 authorized detention, community detention, or shelter care under this section shall
27 immediately file a petition to authorize continued detention, community detention, or
28 shelter care.

29 (2) A hearing on the petition shall be held not later than the next court
30 day, unless extended by the court upon good cause shown.

31 (3) Reasonable notice, oral or written, stating the time, place, and
32 purpose of the hearing, shall be given to the child and, if they can be found, the child's
33 parents, guardian, or custodian.

1 (4) Except as provided in paragraph (5) of this subsection, shelter care
2 may not be ordered for a period of more than 30 days unless an adjudicatory or waiver
3 hearing is held.

4 (5) For a child in need of supervision or a delinquent child, shelter care
5 may be extended for an additional period of not more than 30 days if the court finds
6 after a hearing held as part of the adjudication that continued shelter care is
7 consistent with the circumstances stated in subsections (b) and (c) of this section.

8 (6) (i) ANY WAIVER HEARING SHALL BE HELD NO LATER THAN 15
9 DAYS AFTER THE DATE A PETITION FOR DETENTION IS GRANTED.

10 (II) An adjudicatory [or waiver] hearing shall be held no later than
11 30 days after the date a petition for detention or community detention is granted.

12 [(ii)] (III) If a child is detained or placed in community detention
13 after an adjudicatory hearing, a disposition hearing shall be held no later than 14
14 days after the adjudicatory hearing.

15 [(iii)] (IV) Detention or community detention time may be extended
16 in increments of not more than 14 days where the petition charges the child with a
17 delinquent act and where the court finds, after a subsequent hearing, that extended
18 detention or community detention is necessary either:

- 19 1. For the protection of the child; or
20 2. For the protection of the community.

21 (e) (1) Detention or community detention may not be continued beyond
22 emergency detention or community detention unless, upon an order of court after a
23 hearing, the court has found that one or more of the circumstances stated in
24 subsection (b) of this section exist.

25 (2) A court order under this paragraph shall:

26 (i) Contain a written determination of whether or not the criteria
27 contained in subsection (c)(1) and (2) of this section have been met; and

28 (ii) Specify which of the circumstances stated in subsection (b) of
29 this section exist.

30 (3) (i) If the court has not specifically prohibited community
31 detention, the Department of Juvenile Services may release the child from detention
32 into community detention and place the child in:

- 33 1. Shelter care; or
34 2. The custody of the child's parent, guardian, custodian, or
35 other person able to provide supervision and care for the child and to return the child
36 to court when required.

1 (ii) If a child who has been released by the Department of Juvenile
2 Services or the court into community detention violates the conditions of community
3 detention, and it is necessary to protect the child or others, an intake officer may
4 authorize the detention of the child.

5 (iii) The Department of Juvenile Services shall promptly notify the
6 court of:

7 1. The release of a child from detention under subparagraph
8 (i) of this paragraph; or

9 2. The return to detention of a child under subparagraph (ii)
10 of this paragraph.

11 (f) Shelter care may only be continued beyond emergency shelter care if the
12 court has found that:

13 (1) Continuation of the child in the child's home is contrary to the
14 welfare of the child; and

15 (2) (i) Removal of the child from the child's home is necessary due to
16 an alleged emergency situation and in order to provide for the safety of the child; or

17 (ii) Reasonable but unsuccessful efforts were made to prevent or
18 eliminate the need for removal of the child from the home.

19 (3) (i) If the court continues shelter care on the basis of an alleged
20 emergency, the court shall assess whether the absence of efforts to prevent removal
21 was reasonable.

22 (ii) If the court finds that the absence of efforts to prevent removal
23 was not reasonable, the court shall make a written determination so stating.

24 (4) The court shall make a determination as to whether reasonable
25 efforts are being made to make it possible to return the child to the child's home or
26 whether the absence of such efforts is reasonable.

27 (g) A child alleged to be delinquent may not be detained in a jail or other
28 facility for the detention of adults.

29 (h) (1) A child alleged to be in need of supervision may not be placed in:

30 (i) Detention or community detention;

31 (ii) A State mental health facility; or

32 (iii) A shelter care facility that is not operating in compliance with
33 applicable State licensing laws.

34 (2) Subject to paragraph (1)(iii) of this subsection, a child alleged to be in
35 need of supervision may be placed in shelter care facilities maintained or approved by

1 the Social Services Administration or the Department of Juvenile Services or in a
2 private home or shelter care facility approved by the court.

3 (3) The Secretary of Human Resources and the Secretary of Juvenile
4 Services together, when appropriate, with the Secretary of Health and Mental
5 Hygiene shall jointly adopt regulations to ensure that any child placed in shelter care
6 pursuant to a petition filed under subsection (d) of this section be provided
7 appropriate services, including:

8 (i) Health care services;

9 (ii) Counseling services;

10 (iii) Education services;

11 (iv) Social work services; and

12 (v) Drug and alcohol abuse assessment or treatment services.

13 (4) In addition to any other provision, the regulations shall require:

14 (i) The Department of Juvenile Services to develop a plan within
15 45 days of placement of a child in a shelter care facility to assess the child's treatment
16 needs; and

17 (ii) The plan to be submitted to all parties to the petition and their
18 counsel.

19 (i) The intake officer or the official who authorized detention, community
20 detention, or shelter care under this subtitle shall immediately give written notice of
21 the authorization for detention, community detention, or shelter care to the child's
22 parent, guardian, or custodian and to the court. The notice shall be accompanied by a
23 statement of the reasons for taking the child into custody and placing him in
24 detention, community detention, or shelter care. This notice may be combined with
25 the notice required under subsection (d) of this section.

26 (j) (1) If a child is alleged to have committed a delinquent act, the court or a
27 juvenile intake officer shall consider including, as a condition of releasing the child
28 pending an adjudicatory or disposition hearing, reasonable protections for the safety
29 of the alleged victim.

30 (2) If a victim has requested reasonable protections for safety, the court
31 or juvenile intake officer shall consider including, as a condition of releasing the child
32 pending an adjudicatory or disposition hearing, provisions regarding no contact with
33 the alleged victim or the alleged victim's premises or place of employment.

34 (k) If a child remains in a facility used for detention for the specific act for
35 which the child has been adjudicated delinquent for more than 25 days after the court
36 has made a disposition on a petition under § 3-8A-19 of this subtitle, the Department
37 of Juvenile Services shall:

1 (1) Submit a report to the court explaining the reasons for continued
2 detention; and

3 (2) Every 25 days thereafter, submit another report to the court
4 explaining the reasons for continued detention.

5 **Article - Criminal Procedure**

6 [4-202.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) "Victim" has the meaning stated in § 11-104 of this article.

9 (3) "Victim's representative" has the meaning stated in § 11-104 of this
10 article.

11 (b) Except as provided in subsection (c) of this section, a court exercising
12 criminal jurisdiction in a case involving a child may transfer the case to the juvenile
13 court before trial or before a plea is entered under Maryland Rule 4-242 if:

14 (1) the accused child was at least 14 but not 18 years of age when the
15 alleged crime was committed;

16 (2) the alleged crime is excluded from the jurisdiction of the juvenile
17 court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and

18 (3) the court determines by a preponderance of the evidence that a
19 transfer of its jurisdiction is in the interest of the child or society.

20 (c) The court may not transfer a case to the juvenile court under subsection (b)
21 of this section if:

22 (1) the child previously has been transferred to juvenile court and
23 adjudicated delinquent;

24 (2) the child was convicted in an unrelated case excluded from the
25 jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or

26 (3) the alleged crime is murder in the first degree and the accused child
27 was 16 or 17 years of age when the alleged crime was committed.

28 (d) In determining whether to transfer jurisdiction under subsection (b) of this
29 section, the court shall consider:

30 (1) the age of the child;

31 (2) the mental and physical condition of the child;

32 (3) the amenability of the child to treatment in an institution, facility, or
33 program available to delinquent children;

1 (4) the nature of the alleged crime; and

2 (5) the public safety.

3 (e) In making a determination under this section, the court may order that a
4 study be made concerning the child, the family of the child, the environment of the
5 child, and other matters concerning the disposition of the case.

6 (f) The court shall make a transfer determination within 10 days after the
7 date of a transfer hearing.

8 (g) If the court transfers its jurisdiction under this section, the court may
9 order the child held for an adjudicatory hearing under the regular procedure of the
10 juvenile court.

11 (h) (1) Pending a determination under this section to transfer its
12 jurisdiction, the court may order a child to be held in a secure juvenile facility.

13 (2) A hearing on a motion requesting that a child be held in a juvenile
14 facility pending a transfer determination shall be held not later than the next court
15 day, unless extended by the court for good cause shown.

16 (i) (1) A victim or victim's representative shall be given notice of the
17 transfer hearing as provided under § 11-104 of this article.

18 (2) (i) A victim or a victim's representative may submit a victim
19 impact statement to the court as provided in § 11-402 of this article.

20 (ii) This paragraph does not preclude a victim or victim's
21 representative who has not filed a notification request form under § 11-104 of this
22 article from submitting a victim impact statement to the court.

23 (iii) The court shall consider a victim impact statement in
24 determining whether to transfer jurisdiction under this section.

25 (j) At a bail review or preliminary hearing before the District Court involving
26 a child whose case is eligible for transfer under subsection (b) of this section, the
27 District Court may order that a study be made under the provisions of subsection (e)
28 of this section, or that the child be held in a secure juvenile facility under the
29 provisions of subsection (h) of this section, regardless of whether the District Court
30 has criminal jurisdiction over the case.]

31 10-213.

32 (a) There is a Criminal Justice Information System Central Repository in the
33 Department.

34 (b) The Secretary:

35 (1) has administrative control of the Central Repository; and

1 (2) shall operate the Central Repository with the advice of the Advisory
2 Board.

3 10-215.

4 (a) The following events are reportable events under this subtitle that must be
5 reported to the Central Repository in accordance with § 10-214 of this subtitle:

6 (21) an adjudication of a child as delinquent[:

7 (i) if the child is at least 14 years old,] for an act described in [§
8 3-8A-03(d)(1)] § 3-8A-06(D)(2) of the Courts Article[; or

9 (ii) if the child is at least 16 years old, for an act described in §
10 3-8A-03(d)(4) or (5) of the Courts Article];

11 10-216.

12 (d) (1) This subsection only applies to an adjudication of delinquency of a
13 child[:

14 (i) for an act described in [§ 3-8A-03(d)(1)] § 3-8A-06(D)(2) of the
15 Courts Article [if the child is at least 14 years old; or

16 (ii) for an act described in § 3-8A-03(d)(4) or (5) of the Courts
17 Article if the child is at least 16 years old].

18 (2) If a child has not been previously fingerprinted as a result of arrest
19 for the delinquent act, the court that held the disposition hearing of the child
20 adjudicated delinquent shall order the child to be fingerprinted by the appropriate
21 and available law enforcement unit.

22 (3) If the child cannot be fingerprinted at the time of the disposition
23 hearing held under paragraph (2) of this subsection, the court shall order the child to
24 report to a designated law enforcement unit to be fingerprinted within 3 days after
25 making a disposition on an adjudication of delinquency.

26 **Article - Education**

27 7-303.

28 (a) (1) In this section the following words have the meanings indicated.

29 (2) "Law enforcement agency" means the law enforcement agencies
30 listed in § 3-101(e) of the Public Safety Article.

31 (3) "Local school system" means the schools and school programs under
32 the supervision of the local superintendent.

1 (4) "Local superintendent" means the county superintendent, for the
2 county in which a child is enrolled, or a designee of the superintendent, who is an
3 administrator.

4 (5) "Reportable offense" means:

5 (i) A crime of violence, as defined in § 14-101 of the Criminal Law
6 Article;

7 (ii) Any of the offenses enumerated in [§ 3-8A-03(d)(4)] §
8 3-8A-06(D)(2) of the Courts Article;

9 (iii) A violation of § 4-101, § 4-102, § 4-203, or § 4-204 of the
10 Criminal Law Article;

11 (iv) A violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614,
12 § 5-617, § 5-618, § 5-627, or § 5-628 of the Criminal Law Article; or

13 (v) A violation of § 4-503, § 9-504, or § 9-505 of the Criminal Law
14 Article.

15 (b) If a child enrolled in the public school system is arrested for a reportable
16 offense, the law enforcement agency making the arrest shall notify the local
17 superintendent of the arrest and the charges within 24 hours of the arrest or as soon
18 as practicable.

19 (c) The State's Attorney shall promptly notify the local superintendent of the
20 disposition of the reportable offense required to be reported under subsection (b) of
21 this section.

22 (d) Except by order of a juvenile court or other court upon good cause shown,
23 the information obtained by a local superintendent pursuant to subsections (b) and (c)
24 of this section:

25 (1) Is confidential and may not be redisclosed by subpoena or otherwise
26 except as provided pursuant to subsections (e) and (f) of this section; and

27 (2) May not be made part of the child's permanent educational record.

28 (e) (1) Notwithstanding the provisions of subsection (d) of this section,
29 nothing shall prohibit a local superintendent from transmitting the information
30 obtained pursuant to subsections (b) and (c) of this section as a confidential file to the
31 local superintendent of another public school system in the State in which the student
32 has enrolled or been transferred in order to carry out the purposes of this section if
33 the disposition of the reportable offense was a conviction or an adjudication of
34 delinquency or the criminal charge or delinquency petition is still pending.

35 (2) A local superintendent who transmits information about a child
36 under this subsection shall include in the transmittal information regarding any
37 educational programming and related services provided to the child.

1 (f) The State Board shall adopt regulations to ensure that information
2 obtained by a local superintendent under subsections (b), (c), and (e) of this section is:

3 (1) Used to provide appropriate educational programming and related
4 services to the child and to maintain a safe and secure school environment for
5 students and school personnel; and

6 (2) Transmitted only to the school principal of the school in which the
7 child is enrolled and other school personnel necessary to carry out the purposes set
8 forth in item (1) of this subsection.

9 (g) Nothing in this section is intended to limit the manner in which a local
10 school obtains information or uses information obtained by any lawful means other
11 than that set forth in subsections (b), (c), and (e) of this section.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply only prospectively and may not be applied or interpreted to have
14 any effect on or application to any offenses that were committed before the effective
15 date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2004.