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By: **Delegates Zirkin, Cadden, Gutierrez, Morhaim, and Quinter**

Introduced and read first time: February 11, 2005

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Justice Monitoring - Transfer to Office of the Attorney General**

3 FOR the purpose of transferring the duties of the Office of the Independent Juvenile  
4 Justice Monitor from the Office for Children, Youth, and Families to the Office  
5 of the Attorney General; establishing the Juvenile Justice Monitoring Unit of  
6 the Office of the Attorney General; requiring the Department of Juvenile  
7 Services to adopt a certain policy for addressing disciplinary actions and  
8 grievances; requiring the Department to cooperate with the Unit in a certain  
9 manner; requiring the Department to respond to certain requests by the Unit in  
10 a certain time period; authorizing certain investigations; requiring a  
11 representative from the Juvenile Justice Monitoring Unit to be available to  
12 attend certain meetings of certain advisory boards; authorizing the disclosure of  
13 certain records concerning child abuse and neglect to the Unit under certain  
14 circumstances; establishing the function of the Unit; requiring the Unit to  
15 employ certain staff; providing for certain salaries and expenses; requiring the  
16 Attorney General to set certain salaries, qualifications, and standards in a  
17 certain manner; establishing certain duties of the Unit; authorizing the Unit to  
18 take certain actions; requiring certain reports to be provided by the Unit;  
19 defining certain terms; and generally relating to the establishment of the  
20 Juvenile Justice Monitoring Unit of the Office of the Attorney General.

21 BY repealing

22 Article 49D - Office for Children, Youth, and Families  
23 Section 40 through 45  
24 Annotated Code of Maryland  
25 (2003 Replacement Volume and 2004 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article 83C - Juvenile Services  
28 Section 2-118(d), (g), and (h) and 2-119  
29 Annotated Code of Maryland  
30 (2003 Replacement Volume and 2004 Supplement)

31 BY repealing and reenacting, with amendments,

1 Article 88A - Department of Human Resources  
2 Section 6(b)  
3 Annotated Code of Maryland  
4 (2003 Replacement Volume and 2004 Supplement)

5 BY adding to  
6 Article - State Government  
7 Section 6-301 through 6-306, inclusive, to be under the new subtitle "Subtitle 3.  
8 Juvenile Justice Monitoring Unit"  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume)

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

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

14 [40.

15 (a) In this subtitle the following words have the meanings indicated.

16 (b) "Disciplinary action" means any punitive action against a child that  
17 results in more security, additional obligations, or less personal freedom.

18 (c) "Department" means the Department of Juvenile Services.

19 (d) "Facility" means:

20 (1) A residential facility operated by the Department; and

21 (2) A residential facility owned by the Department but privately  
22 operated.

23 (e) (1) "Grievance" means a complaint made by a child or on behalf of a child  
24 due to a circumstance or action considered to be unjust.

25 (2) "Grievance" does not include an employee grievance, disciplinary  
26 appeal, or complaint.

27 (f) "Independent juvenile justice monitor" means an individual employed by  
28 the Office for Children, Youth, and Families to determine whether the needs of  
29 children under the jurisdiction of the Department are being met in compliance with  
30 State law, that their rights are being upheld, and that they are not being abused.

31 (g) "Office" means the Office of the Independent Juvenile Justice Monitor.

32 (h) "Secretary" means the Secretary of Juvenile Services.

33 (i) "Subcabinet" means the Subcabinet for Children, Youth, and Families.

1 (j) "Special Secretary" means the Special Secretary for Children, Youth, and  
2 Families.]

3 [41.

4 There is an Office of the Independent Juvenile Justice Monitor in the Office for  
5 Children, Youth, and Families.]

6 [42.

7 (a) The Office shall include:

8 (1) A full-time Executive Director; and

9 (2) Staff as provided in the State budget.

10 (b) All salaries for the Executive Director and independent juvenile justice  
11 monitors and expenses for rent, equipment, supplies, and general operating expenses  
12 necessary for the work of the Office shall be as provided in the State budget.

13 (c) In cooperation with the Secretary of Budget and Management, the Office  
14 shall set minimum salaries, qualifications, and standards of training and experience  
15 for positions with the Office.]

16 [43.

17 The Office shall:

18 (1) Evaluate at each facility:

19 (i) The child advocacy grievance process;

20 (ii) The Department's monitoring process;

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, and grievance  
25 dispositions received from each facility and alterations in the status or placement of a  
26 child that result in more security, additional obligations, or less personal freedom;

27 (3) Receive copies of the grievances submitted to the Department;

28 (4) Perform unannounced site visits and on-site inspections of facilities;

29 (5) Receive and review all incident reports submitted to the Department  
30 from facilities;

1           (6)     Receive reports of the findings of child protective services  
2 investigations of allegations of abuse or neglect of a child in a facility; and

3           (7)     Be available to attend meetings of the Advisory Boards established  
4 under Article 83C, § 2-119 of the Code.]

5 [44.

6     The Office may:

7           (1)     Review relevant laws, policies, procedures, and juvenile justice  
8 records, including records relating to individual youth;

9           (2)     On request, conduct interviews with staff, youth, and others;

10          (3)     Review investigative reports produced by the Department relating to  
11 youth in facilities; and

12          (4)     Participate, within the context of the local department of social  
13 services' multidisciplinary team process, in a child protective services investigation  
14 conducted under Title 5, Subtitle 7 of the Family Law Article concerning any  
15 allegation of abuse or neglect within any assigned facility.]

16 [45.

17     (a)     The Office shall report in a timely manner to the Subcabinet, Special  
18 Secretary, the Secretary, and in accordance with § 2-1246 of the State Government  
19 Article, the Speaker of the House of Delegates and the President of the Senate:

20           (1)     Knowledge of any problem regarding the care, supervision, and  
21 treatment of children in facilities;

22           (2)     Findings, actions, and recommendations, related to the  
23 investigations of disciplinary actions, grievances, incident reports, and alleged cases  
24 of child abuse and neglect; and

25           (3)     All other findings and actions related to the monitoring required  
26 under this subtitle.

27     (b)     (1)     The Office shall report quarterly to the Special Secretary and the  
28 Secretary.

29           (2)     A copy of the report shall be provided to the State Advisory Board for  
30 Juvenile Services and, in accordance with § 2-1246 of the State Government Article,  
31 the General Assembly.

32           (3)     The report shall include:

33                   (i)     All activities of the Office;

1 (ii) Actions taken by the Department resulting from the findings  
2 and recommendations of the Independent Monitor, including the Department's  
3 response; and

4 (iii) A summary of any violations of the standards and regulations of  
5 the Department that remained unabated for 30 days or more during the reporting  
6 period.

7 (c) Beginning in 2003, on or before November 30 of each year, the Office shall  
8 report to the Special Secretary, the Secretary, the advisory boards established under  
9 Article 83C, § 2-119 of the Code, the Governor, and, in accordance with § 2-1246 of  
10 the State Government Article, the General Assembly, on all the activities of the Office  
11 and the actions taken by the Department in response to findings and  
12 recommendations of the Independent Monitor.]

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

14 2-118.

15 (d) (1) The Department shall adopt a policy for addressing disciplinary  
16 actions and grievances within its facilities.

17 (2) The policy shall:

18 (i) Require preparation of a written report of any disciplinary  
19 action taken against a child or any grievance which shall be forwarded to the  
20 administrative head of the facility;

21 (ii) Require the administrative head of each facility to review all  
22 reports of disciplinary actions and grievances; and

23 (iii) Require the Department to forward in a timely manner all  
24 reports of disciplinary actions, grievances, and grievance dispositions from each  
25 facility to the [Office of the Independent Juvenile Justice Monitor under Article 49D  
26 of the Code] JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE  
27 ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE STATE  
28 GOVERNMENT ARTICLE.

29 (g) The Department shall cooperate with the [Office of the Independent  
30 Juvenile Justice Monitor established under Article 49D of the Code] JUVENILE  
31 JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL  
32 ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE by:

33 (1) Providing the [Office] UNIT with access to all facilities, reports, and  
34 records relating to individual youth upon request;

35 (2) Allowing the [independent] juvenile justice monitors to conduct  
36 interviews with staff, youth, and any other individuals upon request; and

1 (3) Submitting corrective action plans and incident reports to the  
2 [Office] UNIT in response to findings and recommendations made by the  
3 [independent] juvenile justice monitors regarding a facility.

4 (h) (1) The Department shall respond to requests for information pertaining  
5 to a facility from [an independent] A juvenile justice monitor within 30 days of the  
6 date of the request.

7 (2) If the Department does not respond to a request for information, the  
8 monitor may conduct a reasonable investigation relating to the original request for  
9 information.

10 2-119.

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

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

16 (c) [The independent monitor established under Article 49D of the Code] A  
17 REPRESENTATIVE FROM THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE  
18 OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE  
19 STATE GOVERNMENT ARTICLE shall be available to attend meetings of each advisory  
20 board.

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

22 6.

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

28 (1) Shall be disclosed:

29 (i) Under a court order; or

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

35 (2) May be disclosed on request:

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

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

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

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

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

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

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

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

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

29 3. An employee of an independent contractor, including a bus  
30 driver or bus assistant, who supervises or works directly with students in that school  
31 system;

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

37 (ix) To the [Office of the Independent Juvenile Justice Monitor  
38 established under Article 49D of the Code] JUVENILE JUSTICE MONITORING UNIT OF

1 THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3  
2 OF THE STATE GOVERNMENT ARTICLE.

3 **Article - State Government**

4 SUBTITLE 3. JUVENILE JUSTICE MONITORING UNIT.

5 6-301.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE SERVICES.

9 (C) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION AGAINST A CHILD  
10 THAT RESULTS IN MORE SECURITY, ADDITIONAL OBLIGATIONS, OR LESS PERSONAL  
11 FREEDOM.

12 (D) "FACILITY" MEANS:

13 (1) A RESIDENTIAL FACILITY OPERATED BY THE DEPARTMENT; AND

14 (2) A RESIDENTIAL FACILITY OWNED BY THE DEPARTMENT BUT  
15 PRIVATELY OPERATED.

16 (E) (1) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON  
17 BEHALF OF A CHILD DUE TO A CIRCUMSTANCE OR AN ACTION CONSIDERED TO BE  
18 UNJUST.

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

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

26 (G) "SECRETARY" MEANS THE SECRETARY OF JUVENILE SERVICES.

27 (H) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR CHILDREN,  
28 YOUTH, AND FAMILIES.

29 (I) "UNIT" MEANS THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE  
30 OF THE ATTORNEY GENERAL.

31 6-302.

32 (A) THERE IS A JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE  
33 ATTORNEY GENERAL.

1 (B) THE FUNCTION OF THE UNIT IS TO INVESTIGATE AND DETERMINE  
2 WHETHER THE NEEDS OF CHILDREN UNDER THE JURISDICTION OF THE  
3 DEPARTMENT OF JUVENILE SERVICES ARE BEING MET IN COMPLIANCE WITH STATE  
4 LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT THEY ARE NOT BEING  
5 ABUSED.

6 6-303.

7 (A) THE UNIT SHALL INCLUDE:

8 (1) A FULL-TIME DIRECTOR OF JUVENILE JUSTICE MONITORING; AND

9 (2) STAFF, INCLUDING JUVENILE JUSTICE MONITORS, AS PROVIDED IN  
10 THE STATE BUDGET.

11 (B) SALARIES OF THE DIRECTOR AND JUVENILE JUSTICE MONITORS AND  
12 EXPENSES FOR RENT, EQUIPMENT, SUPPLIES, AND GENERAL OPERATING EXPENSES  
13 NECESSARY FOR THE WORK OF THE UNIT SHALL BE AS PROVIDED IN THE STATE  
14 BUDGET.

15 (C) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT,  
16 THE ATTORNEY GENERAL SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND  
17 STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS WITH THE UNIT.

18 6-304.

19 THE UNIT SHALL:

20 (1) EVALUATE AT EACH FACILITY:

21 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

22 (II) THE DEPARTMENT'S MONITORING PROCESS;

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

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

25 (V) THE ADEQUACY OF STAFFING;

26 (2) REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES,  
27 AND GRIEVANCE DISPOSITIONS RECEIVED FROM EACH FACILITY AND ALTERATIONS  
28 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULT IN MORE SECURITY,  
29 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM;

30 (3) RECEIVE COPIES OF THE GRIEVANCES SUBMITTED TO THE  
31 DEPARTMENT;

32 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS  
33 OF FACILITIES;

1 (5) RECEIVE AND REVIEW ALL INCIDENT REPORTS SUBMITTED TO THE  
2 DEPARTMENT FROM FACILITIES;

3 (6) RECEIVE REPORTS OF THE FINDINGS OF CHILD PROTECTIVE  
4 SERVICES INVESTIGATIONS OF ALLEGATIONS OF ABUSE OR NEGLECT OF A CHILD IN  
5 A FACILITY; AND

6 (7) HAVE A REPRESENTATIVE AVAILABLE TO ATTEND MEETINGS OF  
7 THE ADVISORY BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE.

8 6-305.

9 THE UNIT MAY:

10 (1) REVIEW RELEVANT LAWS, POLICIES, PROCEDURES, AND JUVENILE  
11 JUSTICE RECORDS, INCLUDING RECORDS RELATING TO INDIVIDUAL YOUTH;

12 (2) ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND  
13 OTHERS;

14 (3) REVIEW INVESTIGATIVE REPORTS PRODUCED BY THE DEPARTMENT  
15 RELATING TO YOUTH IN FACILITIES; AND

16 (4) PARTICIPATE, WITHIN THE CONTEXT OF THE LOCAL DEPARTMENT  
17 OF SOCIAL SERVICES' MULTIDISCIPLINARY TEAM PROCESS, IN A CHILD PROTECTIVE  
18 SERVICES INVESTIGATION CONDUCTED UNDER TITLE 5, SUBTITLE 7 OF THE FAMILY  
19 LAW ARTICLE CONCERNING ANY ALLEGATION OF ABUSE OR NEGLECT WITHIN ANY  
20 ASSIGNED FACILITY.

21 6-306.

22 (A) THE UNIT SHALL REPORT IN A TIMELY MANNER TO THE SPECIAL  
23 SECRETARY, THE SECRETARY, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE  
24 GOVERNMENT ARTICLE, THE SPEAKER OF THE HOUSE OF DELEGATES AND THE  
25 PRESIDENT OF THE SENATE:

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

28 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS, RELATED TO THE  
29 INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND  
30 ALLEGED CASES OF CHILD ABUSE AND NEGLECT; AND

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

33 (B) (1) THE UNIT SHALL REPORT QUARTERLY TO THE SPECIAL SECRETARY  
34 AND THE SECRETARY.

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

4           (3)     THE REPORT SHALL INCLUDE:

5                   (I)     ALL ACTIVITIES OF THE UNIT;

6                   (II)    ACTIONS TAKEN BY THE DEPARTMENT RESULTING FROM THE  
7 FINDINGS AND RECOMMENDATIONS OF THE UNIT, INCLUDING THE DEPARTMENT'S  
8 RESPONSE; AND

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

12    (C)     BEGINNING IN 2006, ON OR BEFORE NOVEMBER 30 OF EACH YEAR, THE  
13 UNIT SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE ADVISORY  
14 BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE, THE GOVERNOR,  
15 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
16 GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE OFFICE AND THE ACTIONS  
17 TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS AND RECOMMENDATIONS  
18 OF THE UNIT.

19    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2005.