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By: **Senators Grosfeld, Britt, Exum, Forehand, Gladden, Kelley, Lawlah,  
and McFadden**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Competency**

3 FOR the purpose of requiring the juvenile court to order a certain evaluation of a  
4 certain child under certain circumstances; requiring a certain evaluation to be  
5 performed by a qualified expert; providing for the construction of a certain  
6 provision of this Act; requiring certain legal pleadings to be served on certain  
7 individuals and agencies; specifying certain procedures and conditions under  
8 which an examination is to be conducted; requiring a qualified expert to  
9 examine a certain child and prepare a certain report; requiring the qualified  
10 expert to review certain records and consider certain factors; specifying the  
11 contents of a certain report; specifying certain procedures for the filing of certain  
12 reports; establishing that a failure to file a certain report may not be, in and of  
13 itself, grounds for dismissal of a certain petition; authorizing counsel for the  
14 child to be present during an examination of the child; specifying certain  
15 procedures for a competency hearing; requiring the court to take certain actions  
16 after the court makes a certain determination at a competency hearing;  
17 authorizing the court to take certain actions after the court makes a certain  
18 determination at a competency hearing; requiring a certain service provider to  
19 file a certain report with the court; specifying that the court retains jurisdiction  
20 over a certain child for a certain period; requiring the court to dismiss a certain  
21 petition under certain circumstances; authorizing the court to order that certain  
22 proceedings be instituted under certain circumstances; establishing that certain  
23 hearings may be conducted without the presence of the child under certain  
24 circumstances; specifying that certain statements, information, and reports are  
25 not admissible in a proceeding except under certain circumstances; requiring  
26 the Secretary of Health and Mental Hygiene and the Secretary of Juvenile  
27 Services to jointly adopt certain regulations; defining certain terms; and  
28 generally relating to the competency of a child to participate in certain  
29 proceedings.

30 BY repealing and reenacting, with amendments,  
31 Article - Courts and Judicial Proceedings  
32 Section 3-8A-01  
33 Annotated Code of Maryland

1 (2002 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Courts and Judicial Proceedings

4 Section 3-8A-17.1 through 3-8A-17.9

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2004 Supplement)

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

9 **Article - Courts and Judicial Proceedings**

10 3-8A-01.

11 (a) In this subtitle the following words have the meanings indicated, unless  
12 the context of their use indicates otherwise.

13 (b) "Adjudicatory hearing" means a hearing under this subtitle to determine  
14 whether the allegations in the petition, other than allegations that the child requires  
15 treatment, guidance or rehabilitation, are true.

16 (c) "Adult" means an individual who is at least 18 years old.

17 (d) "Child" means an individual under the age of 18 years.

18 (e) "Child in need of supervision" is a child who requires guidance, treatment,  
19 or rehabilitation and:

20 (1) Is required by law to attend school and is habitually truant;

21 (2) Is habitually disobedient, ungovernable, and beyond the control of  
22 the person having custody of him;

23 (3) Deports himself so as to injure or endanger himself or others; or

24 (4) Has committed an offense applicable only to children.

25 (f) "Citation" means the written form issued by a police officer which serves  
26 as the initial pleading against a child for a violation and which is adequate process to  
27 give the court jurisdiction over the person cited.

28 (g) "Commit" means to transfer legal custody.

29 (h) (1) "Community detention" means a program monitored by the  
30 Department of Juvenile Services in which a delinquent child or a child alleged to be  
31 delinquent is placed in the home of a parent, guardian, custodian, or other fit person,  
32 or in shelter care, as a condition of probation or as an alternative to detention.

33 (2) "Community detention" includes electronic monitoring.

1 (I) "COMPETENCY HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO  
2 DETERMINE WHETHER A CHILD ALLEGED TO BE DELINQUENT IS MENTALLY  
3 COMPETENT TO PARTICIPATE IN A WAIVER HEARING UNDER § 3-8A-06 OF THIS  
4 SUBTITLE, AN ADJUDICATORY HEARING UNDER § 3-8A-18 OF THIS SUBTITLE, A  
5 DISPOSITION HEARING UNDER § 3-8A-19 OF THIS SUBTITLE, OR A VIOLATION OF  
6 PROBATION HEARING.

7 [(i)] (J) "Court" means the circuit court for a county sitting as the juvenile  
8 court.

9 [(j)] (K) "Custodian" means a person or agency to whom legal custody of a  
10 child has been given by order of the court, other than the child's parent or legal  
11 guardian.

12 [(k)] (L) "Delinquent act" means an act which would be a crime if committed  
13 by an adult.

14 [(l)] (M) "Delinquent child" is a child who has committed a delinquent act and  
15 requires guidance, treatment, or rehabilitation.

16 [(m)] (N) "Detention" means the temporary care of children who, pending court  
17 disposition, require secure custody for the protection of themselves or the community,  
18 in physically restricting facilities.

19 (O) "DEVELOPMENTAL DISABILITY" MEANS A SEVERE CHRONIC DISABILITY  
20 OF A CHILD THAT:

21 (1) IS ATTRIBUTABLE TO A PHYSICAL OR MENTAL IMPAIRMENT, OTHER  
22 THAN THE SOLE DIAGNOSIS OF MENTAL ILLNESS, OR TO A COMBINATION OF  
23 MENTAL AND PHYSICAL IMPAIRMENTS;

24 (2) IS LIKELY TO CONTINUE INDEFINITELY;

25 (3) RESULTS IN AN INABILITY TO LIVE INDEPENDENTLY WITHOUT  
26 EXTERNAL SUPPORT OR CONTINUING AND REGULAR ASSISTANCE; AND

27 (4) REFLECTS THE NEED FOR A COMBINATION AND SEQUENCE OF  
28 SPECIAL INTERDISCIPLINARY OR GENERIC CARE, TREATMENT, OR OTHER SERVICES  
29 THAT ARE INDIVIDUALLY PLANNED AND COORDINATED FOR THE CHILD.

30 [(n)] (P) "Disposition hearing" means a hearing under this subtitle to  
31 determine:

32 (1) Whether a child needs or requires guidance, treatment, or  
33 rehabilitation; and if so

34 (2) The nature of the guidance, treatment, or rehabilitation.

35 (Q) "INCOMPETENT TO PROCEED" MEANS THAT A CHILD IS NOT ABLE TO:

36 (1) UNDERSTAND THE NATURE OR OBJECT OF THE PROCEEDING; OR

1 (2) ASSIST IN THE CHILD'S DEFENSE.

2 [(o)] (R) "Intake officer" means the person assigned to the court by the  
3 Department of Juvenile Services to provide the intake services set forth in this  
4 subtitle.

5 (S) (1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL  
6 ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

7 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO  
8 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF A CHILD  
9 AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE WELFARE OF  
10 THE CHILD OR FOR THE SAFETY OF THE CHILD OR PROPERTY OF ANOTHER.

11 (3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

12 (T) "MENTAL RETARDATION" MEANS A DEVELOPMENTAL DISABILITY THAT IS  
13 EVIDENCED BY INTELLECTUAL FUNCTIONING THAT IS SIGNIFICANTLY BELOW  
14 AVERAGE AND IMPAIRMENT IN THE ADAPTIVE BEHAVIOR OF A CHILD.

15 [(p)] (U) "Mentally handicapped child" means a child who is or may be  
16 mentally retarded or mentally ill.

17 [(q)] (V) "Party" includes a child who is the subject of a petition or a peace  
18 order request, the child's parent, guardian, or custodian, the petitioner and an adult  
19 who is charged under § 3-8A-30 of this subtitle.

20 [(r)] (W) "Peace order proceeding" means a proceeding under § 3-8A-19.2 or §  
21 3-8A-19.4 of this subtitle.

22 [(s)] (X) "Peace order request" means the initial pleading filed with the court  
23 under § 3-8A-19.1 of this subtitle.

24 [(t)] (Y) "Petition" means the pleading filed with the court under § 3-8A-13 of  
25 this subtitle alleging that a child is a delinquent child or a child in need of supervision  
26 or that an adult violated § 3-8A-30 of this subtitle.

27 (Z) "QUALIFIED EXPERT" MEANS A LICENSED PSYCHOLOGIST OR  
28 PSYCHIATRIST WHO HAS EXPERTISE IN CHILD DEVELOPMENT, WITH TRAINING IN  
29 FORENSIC EVALUATION PROCEDURES THROUGH FORMAL INSTRUCTION,  
30 PROFESSIONAL SUPERVISION, OR BOTH, AND WHO IS:

31 (1) FAMILIAR WITH THE COMPETENCY STANDARDS CONTAINED IN THIS  
32 SUBTITLE; AND

33 (2) FAMILIAR WITH THE TREATMENT, TRAINING, AND RESTORATION  
34 PROGRAMS FOR CHILDREN THAT ARE AVAILABLE IN THIS STATE.

35 [(u)] (AA) "Respondent" means the individual against whom a petition or a  
36 peace order request is filed.

1 [(v)] (BB) (1) "Shelter care" means the temporary care of children in  
2 physically unrestricting facilities.

3 (2) "Shelter care" does not mean care in a State mental health facility.

4 [(w)] (CC) (1) "Victim" means:

5 (i) A person who suffers direct or threatened physical, emotional,  
6 or financial harm as a result of a delinquent act; or

7 (ii) An individual against whom an act specified in § 3-8A-19.1(b)  
8 of this subtitle is committed or alleged to have been committed.

9 (2) "Victim" includes a family member of a minor, disabled, or a deceased  
10 victim.

11 (3) "Victim" includes, if the victim is not an individual, the victim's agent  
12 or designee.

13 [(x)] (DD) "Violation" means a violation for which a citation is issued under:

14 (1) § 10-113, § 10-114, § 10-115, or § 10-116 of the Criminal Law Article;

15 (2) § 10-108 of the Criminal Law Article; or

16 (3) § 26-103 of the Education Article.

17 [(y)] (EE) "Witness" means any person who is or expects to be a State's witness.  
18 3-8A-17.1.

19 (A) (1) AT ANY TIME AFTER A PETITION ALLEGING THAT A CHILD HAS  
20 COMMITTED A DELINQUENT ACT IS FILED WITH THE COURT UNDER THIS SUBTITLE,  
21 THE COURT ON ITS OWN MOTION, OR ON MOTION OF THE CHILD'S COUNSEL OR THE  
22 STATE'S ATTORNEY, SHALL STAY ALL PROCEEDINGS AND ORDER AN EVALUATION OF  
23 THE CHILD'S MENTAL CONDITION AND DEVELOPMENTAL LEVELS IF THE COURT  
24 FINDS THAT:

25 (I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD HAS  
26 COMMITTED THE DELINQUENT ACT; AND

27 (II) THERE IS REASON TO BELIEVE THAT THE CHILD MAY BE  
28 INCOMPETENT TO PROCEED WITH A WAIVER HEARING UNDER § 3-8A-06 OF THIS  
29 SUBTITLE, AN ADJUDICATORY HEARING UNDER § 3-8A-18 OF THIS SUBTITLE, A  
30 DISPOSITION HEARING UNDER § 3-8A-19 OF THIS SUBTITLE, OR A VIOLATION OF  
31 PROBATION HEARING.

32 (2) AN EVALUATION ORDERED UNDER PARAGRAPH (1) OF THIS  
33 SUBSECTION SHALL BE PERFORMED BY A QUALIFIED EXPERT.

1 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT THE  
2 STATE OR THE CHILD FROM CALLING OTHER EXPERT WITNESSES TO TESTIFY AT A  
3 COMPETENCY HEARING.

4 (B) ANY MOTION QUESTIONING THE CHILD'S COMPETENCY TO PROCEED, AND  
5 ANY SUBSEQUENT LEGAL PLEADING RELATING TO THE CHILD'S COMPETENCY TO  
6 PROCEED, SHALL BE SERVED ON THE CHILD'S COUNSEL, THE STATE'S ATTORNEY,  
7 THE DEPARTMENT OF JUVENILE SERVICES, AND THE DEPARTMENT OF HEALTH AND  
8 MENTAL HYGIENE.

9 3-8A-17.2.

10 (A) THE COURT SHALL SET AND MAY CHANGE THE CONDITIONS UNDER  
11 WHICH THE EXAMINATION IS TO BE CONDUCTED.

12 (B) ON CONSIDERATION OF THE NATURE OF THE PETITION, THE COURT MAY  
13 REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE  
14 CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE AND SHALL  
15 REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE  
16 CHILD WAS NOT PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE.

17 (C) (1) IF A CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS  
18 SUBTITLE, THE COURT MAY ORDER THE CHILD TO CONTINUE TO BE DETAINED  
19 BEYOND ANY PERIOD SPECIFIED IN § 3-8A-15 OF THIS SUBTITLE UNTIL THE  
20 EXAMINATION IS COMPLETED.

21 (2) IF THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY  
22 OF THE CHILD, OR FOR THE SAFETY OF OTHERS, THE COURT MAY ORDER  
23 CONFINEMENT OF THE JUVENILE, PENDING THE EXAMINATION, IN A MEDICAL  
24 FACILITY THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE DESIGNATES  
25 AS APPROPRIATE.

26 3-8A-17.3.

27 (A) (1) THE QUALIFIED EXPERT SHALL EXAMINE THE CHILD AND PREPARE  
28 A REPORT STATING WHETHER, IN THE EXPERT'S OPINION, THE CHILD IS  
29 INCOMPETENT TO PROCEED.

30 (2) IN CONDUCTING THE EXAMINATION, THE QUALIFIED EXPERT SHALL  
31 REVIEW ALL AVAILABLE MEDICAL, EDUCATIONAL, AND COURT RECORDS  
32 CONCERNING THE CHILD AND THE CHILD'S CASE.

33 (3) IN DETERMINING WHETHER THE CHILD IS INCOMPETENT TO  
34 PROCEED, THE QUALIFIED EXPERT SHALL CONSIDER THE FOLLOWING FACTORS:

35 (I) THE CHILD'S AGE, MATURITY LEVEL, DEVELOPMENTAL STAGE,  
36 AND DECISION-MAKING ABILITIES;

37 (II) THE CAPACITY OF THE CHILD TO:

- 1 1. APPRECIATE THE ALLEGATIONS AGAINST THE CHILD;
- 2 2. APPRECIATE THE RANGE AND NATURE OF ALLOWABLE  
3 DISPOSITIONS THAT MAY BE IMPOSED IN THE PROCEEDINGS AGAINST THE CHILD;
- 4 3. UNDERSTAND THE ROLES OF THE PARTICIPANTS AND  
5 THE ADVERSARY NATURE OF THE LEGAL PROCESS;
- 6 4. DISCLOSE TO COUNSEL FACTS PERTINENT TO THE  
7 PROCEEDINGS AT ISSUE;
- 8 5. DISPLAY APPROPRIATE COURTROOM BEHAVIOR; AND
- 9 6. TESTIFY RELEVANTLY; AND
- 10 (III) ANY OTHER FACTORS THAT THE QUALIFIED EXPERT DEEMS TO  
11 BE RELEVANT.
- 12 (4) THE WRITTEN REPORT SUBMITTED BY THE QUALIFIED EXPERT  
13 SHALL:
  - 14 (I) IDENTIFY THE SPECIFIC MATTERS REFERRED FOR  
15 EVALUATION;
  - 16 (II) DESCRIBE THE PROCEDURES, TECHNIQUES, AND TESTS USED  
17 IN THE EXAMINATION AND THE PURPOSES OF EACH;
  - 18 (III) STATE THE QUALIFIED EXPERT'S CLINICAL OBSERVATIONS,  
19 FINDINGS, AND OPINIONS ON EACH FACTOR SPECIFIED IN PARAGRAPH (3) OF THIS  
20 SUBSECTION, AND IDENTIFY THOSE FACTORS, IF ANY, ON WHICH THE QUALIFIED  
21 EXPERT COULD NOT GIVE AN OPINION; AND
  - 22 (IV) IDENTIFY THE SOURCES OF INFORMATION USED BY THE  
23 QUALIFIED EXPERT AND PRESENT THE FACTUAL BASIS FOR THE QUALIFIED  
24 EXPERT'S CLINICAL FINDINGS AND OPINIONS.
- 25 (B) (1) IF THE QUALIFIED EXPERT BELIEVES THAT THE CHILD IS  
26 INCOMPETENT TO PROCEED, THE REPORT SHALL DESCRIBE THE TREATMENT THAT  
27 THE QUALIFIED EXPERT BELIEVES IS NECESSARY FOR THE CHILD TO ATTAIN  
28 COMPETENCY TO PROCEED, AND, IN A SEPARATE REPORT, SHALL STATE WHETHER  
29 THE CHILD POSES A DANGER TO THE CHILD OR TO THE PERSON OR PROPERTY OF  
30 OTHERS.
- 31 (2) IN DETERMINING THE TREATMENT THAT IS NECESSARY FOR THE  
32 CHILD TO ATTAIN COMPETENCY TO PROCEED, THE QUALIFIED EXPERT SHALL  
33 CONSIDER AND REPORT ON THE FOLLOWING:
  - 34 (I) THE MENTAL ILLNESS, MENTAL RETARDATION,  
35 DEVELOPMENTAL IMMATURITY, OR OTHER DEVELOPMENTAL DISABILITY CAUSING  
36 THE CHILD TO BE INCOMPETENT TO PROCEED;

1 (II) THE TREATMENT OR EDUCATION APPROPRIATE FOR THE  
2 MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL IMMATURITY, OR  
3 OTHER DEVELOPMENTAL DISABILITY OF THE CHILD, AND AN EXPLANATION OF  
4 EACH OF THE POSSIBLE TREATMENT OR EDUCATION ALTERNATIVES, IN ORDER OF  
5 RECOMMENDATION;

6 (III) THE LIKELIHOOD OF THE CHILD ATTAINING COMPETENCY TO  
7 PROCEED UNDER THE TREATMENT OR EDUCATION RECOMMENDED, AN  
8 ASSESSMENT OF THE PROBABLE DURATION OF THE TREATMENT REQUIRED TO  
9 ATTAIN COMPETENCY, AND THE PROBABILITY THAT THE CHILD WILL ATTAIN  
10 COMPETENCY TO PROCEED IN THE FORESEEABLE FUTURE; AND

11 (IV) WHETHER THE CHILD MEETS THE CRITERIA FOR  
12 INVOLUNTARY ADMISSION UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH -  
13 GENERAL ARTICLE.

14 (C) (1) ALL REPORTS REQUIRED UNDER THIS SECTION SHALL BE FILED  
15 WITH THE COURT AND SERVED ON THE CHILD'S COUNSEL, THE STATE'S ATTORNEY,  
16 AND THE DEPARTMENT OF JUVENILE SERVICES WITHIN 45 DAYS AFTER THE COURT  
17 ORDERS THE EXAMINATION.

18 (2) ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME  
19 PERIOD SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION FOR AN ADDITIONAL 15  
20 DAYS.

21 (3) FAILURE TO FILE A COMPLETE REPORT WITHIN THE TIME PERIODS  
22 SPECIFIED IN THIS SUBSECTION MAY NOT BE, IN AND OF ITSELF, GROUNDS FOR  
23 DISMISSAL OF THE PETITION ALLEGING DELINQUENCY.

24 (D) COUNSEL FOR THE CHILD MAY BE PRESENT AT AN EXAMINATION UNDER  
25 THIS SECTION.

26 3-8A-17.4.

27 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
28 WITHIN 15 DAYS AFTER RECEIPT OF A REPORT OF A QUALIFIED EXPERT, THE COURT  
29 SHALL HOLD A COMPETENCY HEARING.

30 (2) ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR  
31 HOLDING THE COMPETENCY HEARING FOR AN ADDITIONAL 15 DAYS.

32 (B) AT THE COMPETENCY HEARING, THE COURT SHALL DETERMINE, BY  
33 EVIDENCE PRESENTED ON THE RECORD, WHETHER THE JUVENILE IS INCOMPETENT  
34 TO PROCEED.

35 (C) FINDINGS OF FACT SHALL BE BASED ON THE EVALUATION OF THE CHILD  
36 BY THE QUALIFIED EXPERT.

37 (D) THE STATE SHALL BEAR THE BURDEN OF PROVING THE CHILD'S  
38 COMPETENCY BEYOND A REASONABLE DOUBT.



1 3-8A-17.5.

2 AT A COMPETENCY HEARING, IF THE COURT DETERMINES THAT THE CHILD IS  
3 COMPETENT, THE COURT SHALL ENTER AN ORDER STATING THAT THE CHILD IS  
4 COMPETENT, LIFT THE STAY IMPOSED UNDER § 3-8A-17.1 OF THIS SUBTITLE, AND  
5 PROCEED WITH THE DELINQUENCY PETITION OR VIOLATION OF PROBATION  
6 PETITION IN ACCORDANCE WITH THE TIME PERIODS SPECIFIED IN THIS SUBTITLE  
7 AND IN THE MARYLAND RULES.

8 3-8A-17.6.

9 AT A COMPETENCY HEARING, IF THE COURT DETERMINES THAT THE CHILD IS  
10 UNABLE TO ATTAIN COMPETENCY IN THE FORESEEABLE FUTURE, THE COURT:

11 (1) MAY:

12 (I) ORDER THAT PROCEEDINGS FOR INVOLUNTARY ADMISSION  
13 UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH - GENERAL ARTICLE BE  
14 INSTITUTED, IF APPROPRIATE; OR

15 (II) DISMISS THE DELINQUENCY PETITION OR VIOLATION OF  
16 PROBATION PETITION; AND

17 (2) UNLESS THE COURT FINDS THAT THE CHILD IS A DANGER TO THE  
18 CHILD OR THE PERSON OR PROPERTY OF OTHERS, SHALL RELEASE THE CHILD FROM  
19 ANY FACILITY.

20 3-8A-17.7.

21 (A) UNLESS THE CASE IS DISMISSED UNDER § 3-8A-17.6 OF THIS SUBTITLE, AT  
22 A COMPETENCY HEARING, IF THE COURT DETERMINES THAT A CHILD IS  
23 INCOMPETENT TO PROCEED IN THE FORESEEABLE FUTURE, THE COURT SHALL  
24 RETAIN JURISDICTION OF THE CHILD FOR NOT MORE THAN 3 YEARS AFTER THE  
25 DATE OF THE ORDER OF INCOMPETENCY IF THE CHILD IS ALLEGED TO HAVE  
26 COMMITTED AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, AND  
27 UP TO 1 YEAR AFTER THE DATE OF THE ORDER OF INCOMPETENCY IF THE CHILD IS  
28 ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD BE A MISDEMEANOR IF  
29 COMMITTED BY AN ADULT OR IS ALLEGED TO HAVE VIOLATED PROBATION.

30 (B) AT THE END OF ANY PERIOD SPECIFIED IN SUBSECTION (A) OF THIS  
31 SECTION, IF THE CHILD HAS NOT ATTAINED COMPETENCY, THE COURT:

32 (1) SHALL DISMISS THE DELINQUENCY PETITION OR THE VIOLATION OF  
33 PROBATION PETITION; AND

34 (2) MAY ORDER THAT PROCEEDINGS FOR INVOLUNTARY ADMISSION  
35 UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH - GENERAL ARTICLE BE  
36 INSTITUTED, IF APPROPRIATE.

1 3-8A-17.8.

2 (A) AT ANY TIME BEFORE AN ADJUDICATION UNDER THIS SUBTITLE, A  
3 HEARING ON A PRELIMINARY MOTION ON ANOTHER ISSUE, INCLUDING AN  
4 OBJECTION TO THE SUFFICIENCY OF THE PETITION, MAY BE CONDUCTED WITHOUT  
5 THE CHILD BEING PRESENT IF THE CHILD'S TESTIMONY IS NOT REQUIRED.

6 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY  
7 STATEMENT MADE BY THE CHILD OR INFORMATION ELICITED DURING A  
8 COMPETENCY HEARING OR IN CONNECTION WITH THE DETERMINATION OF  
9 COMPETENCY UNDER THIS SUBTITLE, AND ANY REPORT PREPARED BY A QUALIFIED  
10 EXPERT, MAY NOT BE ADMITTED IN EVIDENCE IN ANY PROCEEDING EXCEPT A  
11 PROCEEDING RELATING TO THE CHILD'S COMPETENCY TO PROCEED.

12 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE  
13 COUNSEL FOR THE CHILD INTRODUCES THE REPORT OF THE QUALIFIED EXPERT, OR  
14 ANY PART OF IT, IN ANY HEARING OTHER THAN A COMPETENCY HEARING.

15 3-8A-17.9.

16 THE SECRETARY OF HEALTH AND MENTAL HYGIENE AND THE SECRETARY OF  
17 JUVENILE SERVICES SHALL JOINTLY ADOPT REGULATIONS TO CARRY OUT THE  
18 PROVISIONS OF THIS SUBTITLE RELATING TO COMPETENCY.

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