
By: **Delegates Niemann, Benson, Gaines, Patterson, and Vaughn**

Introduced and read first time: February 2, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Truancy**

3 FOR the purpose of establishing the juvenile offense of truancy; establishing that the
4 juvenile court has exclusive original jurisdiction over a child alleged to have
5 committed the offense of truancy; establishing procedures for petitions alleging
6 truancy; authorizing the State's Attorney to dismiss in open court a petition
7 alleging truancy under certain circumstances; authorizing the juvenile court to
8 exclude the general public from a hearing on a truancy petition; specifying
9 procedures for shelter care for a child alleged to have committed the offense of
10 truancy; authorizing the juvenile court to notify certain school officials of the
11 fact that a child has been found to have committed the offense of truancy under
12 certain circumstances; authorizing certain additional dispositions for a child
13 found to have committed the offense of truancy; and generally relating to
14 truancy.

15 BY repealing and reenacting, without amendments,
16 Article - Courts and Judicial Proceedings
17 Section 3-8A-01(a) and 3-8A-19(a), (b), and (c)
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Courts and Judicial Proceedings
22 Section 3-8A-01(y), 3-8A-03(a), 3-8A-08, 3-8A-13, 3-8A-15(a), (d), and (h),
23 and 3-8A-19(d)
24 Annotated Code of Maryland
25 (2002 Replacement Volume and 2005 Supplement)

26 BY adding to
27 Article - Courts and Judicial Proceedings
28 Section 3-8A-19(l)
29 Annotated Code of Maryland
30 (2002 Replacement Volume and 2005 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Education
3 Section 7-301
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2005 Supplement)

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

8 **Article - Courts and Judicial Proceedings**

9 3-8A-01.

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

12 (y) "Petition" means the pleading filed with the court under § 3-8A-13 of this
13 subtitle alleging that:

14 (1) [a] A child is a delinquent child [or];

15 (2) [a] A child IS in need of supervision;

16 (3) A CHILD HAS COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301
17 (E)(2) OF THE EDUCATION ARTICLE; or

18 (4) [that an] AN adult violated § 3-8A-30 of this subtitle.

19 3-8A-03.

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

22 (1) A child who is alleged to be delinquent or in need of supervision [or
23 who], IS ALLEGED TO HAVE COMMITTED THE OFFENSE OF TRUANCY UNDER
24 § 7-301(E)(2) OF THE EDUCATION ARTICLE, OR has received a citation for a violation;

25 (2) Except as provided in subsection (d)(6) of this section, a peace order
26 proceeding in which the respondent is a child; and

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

28 3-8A-08.

29 (a) If a petition alleges that a child is in need of supervision OR THAT A CHILD
30 HAS COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF THE
31 EDUCATION ARTICLE, the petition shall be filed in the county where the child resides.

1 (b) If delinquency or violation of § 3-8A-30 of this subtitle is alleged or if a
2 citation is issued, the petition, if any, or the citation shall be filed in the county where
3 the alleged act occurred subject to transfer as provided in § 3-8A-09 of this subtitle.

4 (c) A peace order request shall be filed in the county where the alleged act
5 occurred subject to transfer as provided in § 3-8A-09 of this subtitle.

6 (d) If the alleged delinquent act is escape or attempted escape under § 9-404
7 or § 9-405 of the Criminal Law Article, the petition, if any, shall be filed and the
8 adjudicatory hearing held in the county where the alleged escape or attempted escape
9 occurred unless the court in the county of the child's domicile requests a transfer. For
10 purposes of the disposition hearing, proceedings may be transferred as provided in §
11 3-8A-09 of this subtitle to the court exercising jurisdiction over the child at the time
12 of the alleged act.

13 3-8A-13.

14 (a) A petition shall allege that a child is either delinquent or in need of
15 supervision OR HAS COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF
16 THE EDUCATION ARTICLE. If it alleges delinquency, it shall set forth in clear and
17 simple language the alleged facts which constitute the delinquency, and shall also
18 specify the laws allegedly violated by the child. If it alleges that the child is in need of
19 supervision, the petition shall set forth in clear and simple language the alleged facts
20 supporting that allegation. IF IT ALLEGES TRUANCY, IT SHALL SET FORTH IN CLEAR
21 AND SIMPLE LANGUAGE THE ALLEGED FACTS THAT CONSTITUTE THE VIOLATION.

22 (b) Petitions alleging delinquency [or], violation of § 3-8A-30 of this subtitle,
23 OR TRUANCY UNDER § 7-301(E)(2) OF THE EDUCATION ARTICLE shall be prepared and
24 filed by the State's Attorney. A petition alleging delinquency OR TRUANCY shall be
25 filed within 30 days after the receipt of a referral from the intake officer, unless that
26 time is extended by the court for good cause shown. Petitions alleging that a child is
27 in need of supervision shall be filed by the intake officer.

28 (c) A peace order request shall be filed by the intake officer in accordance with
29 § 3-8A-19.1(b)(1) of this subtitle or the State's Attorney in accordance with §
30 3-8A-19.1(b)(2) of this subtitle.

31 (d) The form of petitions, peace order requests, and all other pleadings under
32 this subtitle, and except as otherwise provided in this subtitle, the procedures to be
33 followed by the court under this subtitle, shall be as specified in the Maryland Rules.

34 (e) The State's Attorney, upon assigning the reasons, may dismiss in open
35 court a petition alleging delinquency OR TRUANCY UNDER § 7-301(E)(2) OF THE
36 EDUCATION ARTICLE.

37 (f) (1) The court shall conduct all hearings under this subtitle in an
38 informal manner.

39 (2) In any proceeding in which a child is alleged to be in need of
40 supervision [or], to have committed a delinquent act that would be a misdemeanor if

1 committed by an adult, OR TO HAVE COMMITTED THE OFFENSE OF TRUANCY UNDER
2 § 7-301(E)(2) OF THE EDUCATION ARTICLE, or in a peace order proceeding, the court
3 may exclude the general public from a hearing, and admit only the victim and those
4 persons having a direct interest in the proceeding and their representatives.

5 (3) Except as provided in paragraph (4) of this subsection, in a case in
6 which a child is alleged to have committed a delinquent act that would be a felony if
7 committed by an adult, the court shall conduct in open court any hearing or other
8 proceeding at which the child has a right to appear.

9 (4) For good cause shown, the court may exclude the general public from
10 a hearing or other proceeding in a case in which a child is alleged to have committed
11 a delinquent act that would be a felony if committed by an adult and admit only the
12 victim and those persons having a direct interest in the proceeding and their
13 representatives.

14 (5) Except as provided in paragraph (6) of this subsection, the court shall
15 announce, in open court, adjudications and dispositions in cases where a child is
16 alleged to have committed a delinquent act which would be a felony if committed by
17 an adult.

18 (6) For good cause shown, the court may exclude the general public from
19 a proceeding at which an adjudication or disposition is announced and admit only the
20 victim and those persons having a direct interest in the proceeding and their
21 representatives.

22 (g) The court shall try cases without a jury.

23 (h) The court shall hear and rule on a petition seeking an order for emergency
24 medical treatment on an expedited basis.

25 3-8A-15.

26 (a) Only the court or an intake officer may authorize detention, community
27 detention, or shelter care for a child who may be in need of supervision or delinquent,
28 OR WHO IS ALLEGED TO HAVE COMMITTED THE OFFENSE OF TRUANCY UNDER §
29 7-301(E)(2) OF THE EDUCATION ARTICLE.

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

34 (2) A hearing on the petition shall be held not later than the next court
35 day, unless extended for no more than 5 days by the court upon good cause shown.

36 (3) Reasonable notice, oral or written, stating the time, place, and
37 purpose of the hearing, shall be given to the child and, if they can be found, the child's
38 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, OR A
5 CHILD WHO HAS COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF THE
6 EDUCATION ARTICLE, shelter care may be extended for an additional period of not
7 more than 30 days if the court finds after a hearing held as part of the adjudication
8 that continued shelter care is consistent with the circumstances stated in subsections
9 (b) and (c) of this section.

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

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

15 (iii) Detention or community detention time may be extended in
16 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 (h) (1) A child alleged to be in need of supervision OR A CHILD ALLEGED TO
22 HAVE COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF THE
23 EDUCATION ARTICLE may not be placed in:

24 (i) Detention or community detention;

25 (ii) A State mental health facility; or

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

28 (2) Subject to paragraph (1)(iii) of this subsection, a child alleged to be in
29 need of supervision OR A CHILD ALLEGED TO HAVE COMMITTED THE OFFENSE OF
30 TRUANCY UNDER § 7-301(E)(2) OF THE EDUCATION ARTICLE may be placed in shelter
31 care facilities maintained or approved by the Social Services Administration or the
32 Department of Juvenile Services or in a private home or shelter care facility approved
33 by the court.

34 3-8A-19.

35 (a) The provisions of this section do not apply to a peace order request or a
36 peace order proceeding.

1 (b) (1) After an adjudicatory hearing the court shall hold a separate
2 disposition hearing, unless the petition or citation is dismissed or unless such hearing
3 is waived in writing by all of the parties.

4 (2) A disposition hearing may be held on the same day as the
5 adjudicatory hearing if notice of the disposition hearing, as prescribed by the
6 Maryland Rules, is waived on the record by all of the parties.

7 (c) The priorities in making a disposition are consistent with the purposes
8 specified in § 3-8A-02 of this subtitle.

9 (d) (1) In making a disposition on a petition under this subtitle, the court
10 may:

11 (i) Place the child on probation or under supervision in his own
12 home or in the custody or under the guardianship of a relative or other fit person,
13 upon terms the court deems appropriate, including community detention;

14 (ii) Subject to the provisions of paragraph (2) of this subsection,
15 commit the child to the custody or under the guardianship of the Department of
16 Juvenile Services, the Department of Health and Mental Hygiene, or a public or
17 licensed private agency on terms that the court considers appropriate to meet the
18 priorities set forth in § 3-8A-02 of this subtitle, including designation of the type of
19 facility where the child is to be accommodated, until custody or guardianship is
20 terminated with approval of the court or as required under § 3-8A-24 of this subtitle;
21 or

22 (iii) Order the child, parents, guardian, or custodian of the child to
23 participate in rehabilitative services that are in the best interest of the child and the
24 family.

25 (2) In addition to the provisions of paragraph (1) of this subsection, in
26 making a disposition on a petition, the court may adopt a treatment service plan, as
27 defined in § 3-8A-20.1 of this subtitle.

28 (3) A child committed under paragraph (1)(ii) of this subsection may not
29 be accommodated in a facility that has reached budgeted capacity if a bed is available
30 in another comparable facility in the State, unless the placement to the facility that
31 has reached budgeted capacity has been recommended by the Department of Juvenile
32 Services.

33 (4) The court shall consider any oral address made in accordance with §
34 11-403 of the Criminal Procedure Article or any victim impact statement, as
35 described in § 11-402 of the Criminal Procedure Article, in determining an
36 appropriate disposition on a petition.

37 (5) (i) If the court finds that a child is in need of supervision OR HAS
38 COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF THE EDUCATION
39 ARTICLE and commits the child to the custody or under the guardianship of the
40 Department of Juvenile Services, the court may notify the county superintendent, the

1 supervisor of pupil personnel, or any other official designated by the county
2 superintendent of the fact that the child has been found to be in need of supervision
3 OR HAS COMMITTED THE OFFENSE OF TRUANCY UNDER § 7-301(E)(2) OF THE
4 EDUCATION ARTICLE and has been committed to the custody or under the
5 guardianship of the Department of Juvenile Services.

6 (ii) The notice may not include any order or pleading related to the
7 child in need of supervision case.

8 (L) IN ADDITION TO THE DISPOSITIONS SPECIFIED UNDER SUBSECTION (D)
9 OF THIS SECTION, IF A CHILD HAS COMMITTED THE OFFENSE OF TRUANCY UNDER §
10 7-301(E)(2) OF THE EDUCATION ARTICLE, THE COURT MAY ORDER THE CHILD TO:

11 (1) ATTEND SCHOOL;

12 (2) PERFORM COMMUNITY SERVICE;

13 (3) ATTEND COUNSELING, INCLUDING FAMILY COUNSELING;

14 (4) ATTEND SUBSTANCE ABUSE EVALUATION AND TREATMENT;

15 (5) ATTEND MENTAL HEALTH EVALUATION AND TREATMENT; OR

16 (6) KEEP A CURFEW WITH THE HOURS SET BY THE COURT.

17 **Article - Education**

18 7-301.

19 (a) (1) Except as otherwise provided in this section, each child who resides
20 in this State and is 5 years old or older and under 16 shall attend a public school
21 regularly during the entire school year unless the child is otherwise receiving regular,
22 thorough instruction during the school year in the studies usually taught in the public
23 schools to children of the same age.

24 (2) In accordance with regulations of the State Board of Education, a
25 child who resides in this State and is 5 years old may be exempted from mandatory
26 school attendance for 1 year if the child's parent or guardian files a written request
27 with the local school system asking that the child's attendance be delayed due to the
28 child's level of maturity.

29 (3) Except as provided in subsection (f) of this section or in regulations of
30 the State Board of Education, each child who resides in this State shall attend a
31 kindergarten program regularly during the school year prior to entering the first
32 grade unless the child is otherwise receiving regular, thorough instruction in the
33 skills and studies usually taught in a kindergarten program of a public school.

34 (b) A county superintendent, school principal, or an individual authorized by
35 the county superintendent or principal may excuse a student for a lawful absence.

1 (c) Each person who has legal custody or care and control of a child who is 5
2 years old or older and under 16 shall see that the child attends school or receives
3 instruction as required by this section.

4 (d) (1) This section applies to any child who has a mental, emotional, or
5 physical handicap.

6 (2) This section does not apply to a child:

7 (i) Whose mental, emotional, or physical condition makes his
8 instruction detrimental to his progress; or

9 (ii) Whose presence in school presents a danger of serious physical
10 harm to others.

11 (3) With the advice of the school principal, supervisor, pupil personnel
12 supervisor, or visiting teacher and with the written recommendation of a licensed
13 physician or a State Department of Education certified or licensed psychologist, the
14 county superintendent may:

15 (i) Make other appropriate provisions for the free education of any
16 student excepted from attendance under paragraph (2) of this subsection; or

17 (ii) Permit the parents or guardians of that student to withdraw
18 him from public school, for as long as the attendance of the child in a public school
19 would be detrimental to his progress or his presence in school would present a danger
20 of serious physical harm to others.

21 (4) If a child is withdrawn from a public school under this subsection, the
22 county board shall make other appropriate provisions for the education of the child.

23 (5) If an appropriate educational placement is not available immediately,
24 the county board shall make interim provisions for the education of the child until an
25 appropriate placement becomes available.

26 (e) (1) (I) Any person who induces or attempts to induce a child to absent
27 himself unlawfully from school or employs or harbors any child who is absent
28 unlawfully from school while school is in session is guilty of a misdemeanor and on
29 conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30
30 days, or both.

31 [(2)] (II) Any person who has legal custody or care and control of a child
32 who is 5 years old or older and under 16 who fails to see that the child attends school
33 or receives instruction under this section is guilty of a misdemeanor and:

34 [(i)] 1. For a first conviction is subject to a fine not to exceed \$50
35 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

1 [(ii)] 2. For a second or subsequent conviction is subject to a fine
2 not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30
3 days, or both.

4 [(3)] (III) As to any sentence imposed under this section, the court may
5 suspend the fine or the prison sentence and establish terms and conditions which
6 would promote the child's attendance. The suspension authority provided for in this
7 subsection is in addition to and not in limitation of the suspension authority under §
8 6-221 of the Criminal Procedure Article.

9 (2) (I) A CHILD WHO IS REQUIRED UNDER THIS SECTION TO ATTEND
10 SCHOOL MAY NOT FAIL TO DO SO WITHOUT LAWFUL EXCUSE.

11 (II) A CHILD WHO VIOLATES THIS PARAGRAPH HAS COMMITTED
12 THE OFFENSE OF TRUANCY AND IS SUBJECT TO THE PROCEDURES AND
13 DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

14 (e-1) (1) This subsection applies only in Dorchester County, Somerset County,
15 Wicomico County, and Worcester County.

16 (2) A charge under this section may be filed in the juvenile court and
17 assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts
18 Article.

19 (3) For a person with legal custody or care and control of a child at the
20 time of an alleged violation of this section, it is an affirmative defense to a charge
21 under this section that the person made reasonable and substantial efforts to see that
22 the child attended school as required by law but was unable to cause the child to
23 attend school.

24 (4) If the court finds the affirmative defense is valid, the court shall
25 dismiss the charge under this section against the defendant.

26 (f) A child may be exempted from attending kindergarten if a parent or
27 guardian of the child files a written request with the local school system and verifies
28 that the child is enrolled:

29 (1) Full time in a licensed child care center;

30 (2) Full time in a registered family day care home; or

31 (3) Part time in a Head Start 5 year old program.

32 (g) Kindergarten programs are not subject to the requirements of § 7-103(a) of
33 this title relating to minimum days or hours of operation.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2006.