

HOUSE BILL 1325

E3

(7lr3211)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegates Conway, Barnes, Benson, DeBoy, Eckardt, Elmore, Frush, Glassman, Haddaway, Holmes, Hubbard, Impallaria, James, Jennings, Levi, McComas, McDonough, Niemann, Pena-Melnyk, Proctor, Riley, Ross, Rudolph, Shewell, Smigiel, Sossi, Stifler, Valderrama, Vallario, Vaughn, and Walkup**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law - Truancy Reduction Pilot Programs**

3 FOR the purpose of authorizing the establishment of a Truancy Reduction Pilot
4 Program in Harford County and Prince George's County; making certain
5 provisions relating to Truancy Reduction Pilot Programs in certain counties
6 applicable to Harford County and Prince George's County; authorizing the Chief
7 Judge of the Court of Appeals to accept a gift or grant for certain purposes

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 under certain circumstances; authorizing the juvenile court to condition
 2 marking a certain criminal charge set on participation of the defendant in a
 3 certain Truancy Reduction Pilot Program; ~~authorizing the juvenile court to~~
 4 ~~make certain additional dispositions on a certain petition under certain~~
 5 ~~circumstances; authorizing the juvenile court to forward a complaint to a~~
 6 ~~Department of Juvenile Services intake officer for the filing of a delinquency~~
 7 ~~petition or a child in need of supervision petition under certain circumstances;~~
 8 ~~requiring an intake officer and a State's Attorney to take certain actions on~~
 9 ~~receipt of a certain complaint; prohibiting a certain child from being placed in~~
 10 ~~detention or certain other facilities; making a clarifying change;~~ requiring the
 11 Chief Judge of the Court of Appeals to submit a certain report to the General
 12 Assembly by a certain date; making this Act subject to a certain contingency;
 13 extending the termination date of certain provisions relating to Truancy
 14 Reduction Pilot Programs; providing for the termination of certain provisions of
 15 this Act; and generally relating to Truancy Reduction Pilot Programs.

16 ~~BY repealing and reenacting, without amendments,~~
 17 ~~Article – Courts and Judicial Proceedings~~
 18 ~~Section 3-8A-01(a), (h), and (n) and 3-8A-10(b) and 3-8C-06(d)~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2006 Replacement Volume)~~

21 ~~BY adding to~~
 22 ~~Article – Courts and Judicial Proceedings~~
 23 ~~Section 3-8A-10(c)(5) and 3-8C-06.1~~
 24 ~~Annotated Code of Maryland~~
 25 ~~(2006 Replacement Volume)~~

26 BY repealing and reenacting, with amendments,
 27 Article – Courts and Judicial Proceedings
 28 ~~Section 3-8A-15(c) and (g), 3-8A-19(d), 3-8C-01, 3-8C-02, and 3-8C-04~~
 29 ~~3-8C-04, 3-8C-06(d), and 3-8C-07~~
 30 ~~Section 3-8C-01 and 3-8C-02~~
 31 ~~Annotated Code of Maryland~~
 32 ~~(2006 Replacement Volume)~~

33 BY repealing and reenacting, with amendments,
 34 Article – Education
 35 Section 7-301(e-1)
 36 Annotated Code of Maryland
 37 (2006 Replacement Volume)

38 BY repealing and reenacting, with amendments,

1 Chapter 551 of the Acts of the General Assembly of 2004
2 Section 2, 3, and 4

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

5 **Article – Courts and Judicial Proceedings**

6 ~~§ 8A-01.~~

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

9 ~~(h) (1) “Community detention” means a program monitored by the~~
10 ~~Department of Juvenile Services in which a delinquent child or a child alleged to be~~
11 ~~delinquent is placed in the home of a parent, guardian, custodian, or other fit person,~~
12 ~~or in shelter care, as a condition of probation or as an alternative to detention.~~

13 ~~(2) “Community detention” includes electronic monitoring.~~

14 ~~(n) “Detention” means the temporary care of children who, pending court~~
15 ~~disposition, require secure custody for the protection of themselves or the community,~~
16 ~~in physically restricting facilities.~~

17 ~~§ 8A-10.~~

18 ~~(b) An intake officer shall receive:~~

19 ~~(1) Complaints from a person or agency having knowledge of facts~~
20 ~~which may cause a person to be subject to the jurisdiction of the court under this~~
21 ~~subtitle; and~~

22 ~~(2) Citations issued by a police officer under § 3-8A-33 of this subtitle.~~

23 ~~(e) (5) (i) NOTWITHSTANDING ANY OTHER PROVISION OF THIS~~
24 ~~SECTION, IF THE COURT FORWARDS A COMPLAINT UNDER § 3-8C-06.1 OF THIS~~
25 ~~TITLE ALLEGING THAT A CHILD HAS FAILED TO COMPLY WITH AN ORDER~~
26 ~~ISSUED UNDER § 3-8C-06 OF THIS TITLE, AN INTAKE OFFICER IMMEDIATELY~~
27 ~~SHALL FORWARD TO THE STATE’S ATTORNEY:~~

28 **1. THE COMPLAINT; AND**

~~2. A COPY OF THE ENTIRE INTAKE CASE FILE,
INCLUDING ANY PRIOR INTAKE INVOLVEMENT OF THE CHILD.~~

~~(H) WITHIN 30 DAYS AFTER RECEIPT OF A COMPLAINT
UNDER THIS PARAGRAPH, A STATE'S ATTORNEY:~~

~~1. SHALL REVIEW THE COMPLAINT PRELIMINARILY
TO DETERMINE WHETHER:~~

~~A. THE COURT HAS JURISDICTION; AND~~

~~B. THE FILING OF A DELINQUENCY PETITION IS IN
THE BEST INTERESTS OF THE CHILD AND THE PUBLIC; AND~~

~~2. UNLESS THE COURT EXTENDS THE TIME, SHALL:~~

~~A. FILE A DELINQUENCY PETITION; OR~~

~~B. DISMISS THE COMPLAINT.~~

~~3 SA 15.~~

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

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

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

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

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

~~1. Shelter care; or~~

1 ~~2. The custody of the child's parent, guardian, custodian,~~
2 ~~or other person able to provide supervision and care for the child and to return the~~
3 ~~child to court when required.~~

4 ~~(ii) 1. [If] EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH~~
5 ~~2 OF THIS SUBPARAGRAPH, IF a child who has been released by the Department of~~
6 ~~Juvenile Services or the court into community detention violates the conditions of~~
7 ~~community detention, and it is necessary to protect the child or others, an intake~~
8 ~~officer may authorize the detention of the child.~~

9 ~~2. A CHILD ALLEGED TO BE DELINQUENT AS A~~
10 ~~RESULT OF THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER~~
11 ~~§ 3-8C-06.1 OF THIS TITLE AND WHO VIOLATES THE CONDITIONS OF~~
12 ~~COMMUNITY DETENTION MAY NOT BE PLACED IN DETENTION.~~

13 ~~(iii) The Department of Juvenile Services shall promptly notify~~
14 ~~the court of:~~

15 ~~1. The release of a child from detention under~~
16 ~~subparagraph (i) of this paragraph; or~~

17 ~~2. The return to detention of a child under subparagraph~~
18 ~~(ii) of this paragraph.~~

19 ~~(g) (1) A child alleged to be delinquent may not be detained in a jail or~~
20 ~~other facility for the detention of adults.~~

21 ~~(2) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS~~
22 ~~SECTION, A CHILD ALLEGED TO BE DELINQUENT AS A RESULT OF THE FAILURE~~
23 ~~TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-06.1 OF THIS TITLE MAY~~
24 ~~NOT BE PLACED IN:~~

25 ~~1. DETENTION;~~

26 ~~2. A STATE MENTAL HEALTH FACILITY; OR~~

27 ~~3. A SHELTER CARE FACILITY THAT IS NOT~~
28 ~~OPERATING IN COMPLIANCE WITH APPLICABLE STATE LICENSING LAWS.~~

29 ~~(H) THIS PARAGRAPH MAY NOT BE CONSTRUED TO~~
30 ~~PROHIBIT A CHILD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH~~

1 ~~FROM BEING PLACED IN COMMUNITY DETENTION IN ACCORDANCE WITH THIS~~
2 ~~SECTION.~~

3 ~~§ 8A-19.~~

4 ~~(d) (1) In making a disposition on a petition under this subtitle, the court~~
5 ~~may:~~

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

9 ~~(ii) Subject to the provisions of [paragraph (2)] PARAGRAPHS~~
10 ~~(2) AND (6) of this subsection, commit the child to the custody or under the~~
11 ~~guardianship of the Department of Juvenile Services, the Department of Health and~~
12 ~~Mental Hygiene, or a public or licensed private agency on terms that the court~~
13 ~~considers appropriate to meet the priorities set forth in § 3-8A-02 of this subtitle,~~
14 ~~including designation of the type of facility where the child is to be accommodated,~~
15 ~~until custody or guardianship is terminated with approval of the court or as required~~
16 ~~under § 3-8A-24 of this subtitle; or~~

17 ~~(iii) Order the child, parents, guardian, or custodian of the child~~
18 ~~to participate in rehabilitative services that are in the best interest of the child and~~
19 ~~the family.~~

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

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

28 ~~(4) The court shall consider any oral address made in accordance with~~
29 ~~§ 11-403 of the Criminal Procedure Article or any victim impact statement, as~~
30 ~~described in § 11-402 of the Criminal Procedure Article, in determining an~~
31 ~~appropriate disposition on a petition.~~

32 ~~(5) (i) If the court finds that a child is in need of supervision and~~
33 ~~commits the child to the custody or under the guardianship of the Department of~~

~~Juvenile Services, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.~~

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

~~**(6) A CHILD FOUND DELINQUENT AS A RESULT OF THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-01.6 OF THIS TITLE MAY NOT BE PLACED IN A SECURE FACILITY.**~~

3-8C-01.

This subtitle applies only in Dorchester County, **HARFORD COUNTY, PRINCE GEORGE'S COUNTY**, Somerset County, Wicomico County, and Worcester County.

3-8C-02.

(A) (1) The Circuit Administrative Judge of the First Circuit may establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in Dorchester County, Somerset County, Wicomico County, and Worcester County.

(2) THE CIRCUIT ADMINISTRATIVE JUDGE OF THE THIRD CIRCUIT MAY ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE JUVENILE COURT IN HARFORD COUNTY.

(3) THE CIRCUIT ADMINISTRATIVE JUDGE OF THE SEVENTH CIRCUIT MAY ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE JUVENILE COURT IN PRINCE GEORGE'S COUNTY.

(B) AFTER CONSULTATION WITH THE ADMINISTRATIVE JUDGES OF THE FIRST, THIRD, AND SEVENTH CIRCUITS, THE CHIEF JUDGE OF THE COURT OF APPEALS MAY ACCEPT A GIFT OR GRANT TO IMPLEMENT THE PILOT PROGRAMS IN EACH RESPECTIVE CIRCUIT.

~~3-8C-04.~~

~~(a) An authorized school official may file with the juvenile court a petition alleging a violation of this subtitle.~~

1 (b) ~~If a child is under the age of 12 years, an authorized school official may~~
2 ~~file a petition under this subtitle only if:~~

3 (1) ~~A criminal charge was filed under § 7-301 of the Education Article~~
4 ~~against the person with legal custody or care and control of the child at the time of the~~
5 ~~alleged violation; and~~

6 (2) ~~The court dismissed OR STETTED the charge in accordance with §~~
7 ~~7-301(e-1) of the Education Article.~~

8 ~~§ 8C-06.~~

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

11 (1) ~~**ORDER**~~ the child to:

12 (1) ~~(I)~~ ~~Attend school;~~

13 (2) ~~(II)~~ ~~Perform community service;~~

14 (3) ~~(III)~~ ~~Attend counseling, including family counseling;~~

15 (4) ~~(IV)~~ ~~Attend substance abuse evaluation and treatment;~~

16 (5) ~~(V)~~ ~~Attend mental health evaluation and treatment; or~~

17 (6) ~~(VI)~~ ~~Keep a curfew with the hours set by the court; OR~~

18 (2) ~~**WITH THE AGREEMENT OF THE PERSON WITH LEGAL**~~
19 ~~**CUSTODY OR CARE AND CONTROL OF THE CHILD:**~~

20 (1) ~~**PLACE THE CHILD IN A RESPITE HOME;**~~

21 (2) ~~**PLACE THE CHILD TEMPORARILY IN THE CUSTODY OR**~~
22 ~~**CARE AND CONTROL OF ANOTHER RESPONSIBLE ADULT SELECTED BY THE**~~
23 ~~**PERSON WITH LEGAL CUSTODY OR CARE AND CONTROL OF THE CHILD; OR**~~

24 (3) ~~**PROVIDE FOR ANY OTHER SERVICES DESIGNED TO**~~
25 ~~**REDUCE THE CHILD'S TRUANT BEHAVIOR.**~~

1 ~~3-8C-06.1.~~

2 ~~(A) THE COURT MAY FORWARD A COMPLAINT TO AN INTAKE OFFICER~~
 3 ~~UNDER § 3-8A-10(C)(5) OF THIS TITLE FOR THE FILING OF A DELINQUENCY~~
 4 ~~PETITION IF THE COURT FINDS:~~

5 ~~(1) PROBABLE CAUSE TO BELIEVE THAT THE CHILD HAS FAILED~~
 6 ~~TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-06 OF THIS SUBTITLE; AND~~

7 ~~(2) THAT FAILURE TO COMPLY WITH THE ORDER, IF COMMITTED~~
 8 ~~BY AN ADULT, WOULD BE AN ACT OF CRIMINAL CONTEMPT.~~

9 ~~(B) THE COURT MAY FORWARD A COMPLAINT TO AN INTAKE OFFICER~~
 10 ~~FOR THE FILING OF A CHILD IN NEED OF SUPERVISION PETITION IF THE COURT~~
 11 ~~FINDS THAT THE CHILD IS REQUIRED BY LAW TO ATTEND SCHOOL AND IS~~
 12 ~~HABITUALLY TRUANT.~~

13 ~~3-8C-07.~~

14 ~~A criminal defendant under [this subtitle] § 7-301(e-1) OF THE EDUCATION~~
 15 ~~ARTICLE is subject to:~~

16 ~~(1) Any conditions of probation authorized under § 6-220 of the~~
 17 ~~Criminal Procedure Article; and~~

18 ~~(2) Any additional condition of probation that would promote the~~
 19 ~~child's attendance in school.~~

20 **Article - Education**

21 7-301.

22 (e-1) (1) This subsection applies only in Dorchester County, **HARFORD**
 23 **COUNTY, PRINCE GEORGE'S COUNTY**, Somerset County, Wicomico County, and
 24 Worcester County.

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

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

6 [(4)] (II) If the court finds the affirmative defense is valid, the court
7 shall dismiss the charge under this section against the defendant.

8 (4) **THE COURT MAY CONDITION MARKING A CHARGE UNDER THIS**
9 **SECTION STET ON PARTICIPATION OF THE DEFENDANT IN THE APPROPRIATE**
10 **TRUANCY REDUCTION PILOT PROGRAM UNDER TITLE 3, SUBTITLE 8C OF THE**
11 **COURTS ARTICLE.**

12 Chapter 551 of the Acts of 2004

13 SECTION 2. AND BE IT FURTHER ENACTED, That on or before [May 31,
14 2007] **DECEMBER 1, 2010 2008**, the [Circuit Administrative Judge for the First
15 Circuit] **CHIEF JUDGE OF THE COURT OF APPEALS** shall submit a report to the
16 General Assembly, in accordance with § 2-1246 of the State Government Article, that
17 evaluates [the] **EACH** Truancy Reduction Pilot Program established under this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That ~~DURING EACH FISCAL~~
19 ~~YEAR FROM FISCAL YEAR 2008 THROUGH FISCAL YEAR 2012~~ **DURING EACH OF**
20 **FISCAL YEARS 2008 AND 2009**, this Act is contingent on funds, **EXCLUSIVE OF ANY**
21 **GIFTS**, being included in [the 2005, 2006, and 2007] **THAT** fiscal year State [budgets]
22 **BUDGET** for the Administrative Office of the Courts/Family Services Program to
23 establish the Truancy Reduction Pilot [Program] **PROGRAMS** in one or more of the
24 juvenile courts in Dorchester County, **HARFORD COUNTY, PRINCE GEORGE'S**
25 **COUNTY**, Somerset County, Wicomico County, and Worcester County. If the funds are
26 not included in the State budget for A fiscal [years 2005, 2006, or 2007] **YEAR**, this
27 Act shall be null and void **AS TO THAT FISCAL YEAR** without the necessity for further
28 action by the General Assembly.

29 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
30 of Section 3 of this Act, this Act shall take effect July 1, 2004. It shall remain effective
31 for a period of [3] **7 5** years and, at the end of [June 30, 2007] **JUNE 30, 2011 2009**,
32 with no further action required by the General Assembly, this Act shall be abrogated
33 and of no further force and effect.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to the provisions
2 of Section 3 of Chapter 551 of the Acts of the General Assembly of 2004 as amended by
3 this Act, this Act shall take effect July 1, 2007. This Act shall remain effective until
4 the taking effect of the termination provision specified in Section 4 of Chapter 551 of
5 the Acts of the General Assembly of 2004 as amended by this Act. If that termination
6 provision takes effect, this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.