

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1227
Judiciary

(Delegate Carter, *et al.*)

Judicial Proceedings

Juvenile Proceedings - Expungement of Criminal Charge Transferred to
Juvenile Court

This bill requires a court to grant a petition for expungement of a criminal charge that was transferred to the juvenile court. The bill repeals current statutory requirements pertaining to the time after which a person may file such a petition.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing resources.

Local Effect: The bill's requirements can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: "Child" means an individual under the age of 18 years.

In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for alcoholic beverage violations.

The juvenile court does not have jurisdiction over children at least 16 years old who are alleged to have committed a violent crime, children 14 and older charged with a capital crime, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving such a child to the juvenile court if a transfer is believed to be in the interests of the child or society ("reverse waiver"). Reverse waiver is not permitted in certain circumstances, including if

a child was previously transferred to juvenile court and adjudicated delinquent. The District Court also has the authority to transfer cases to juvenile court under certain circumstances. In addition, the juvenile court may waive jurisdiction over a child alleged to be delinquent who is 15 or older, or who is younger than 15 and is charged with committing an act which if committed by an adult, would be punishable by death or life imprisonment.

A person may file a petition for expungement of records relating to a criminal charge that is transferred to the juvenile court (1) after the date of the decision not to file a delinquency petition; (2) after the decision on the delinquency petition of facts-not-sustained; or (3) when the person becomes 21 years old, if the charge resulted in adjudication of the person as a delinquent child. The court is required to grant petitions filed pursuant to the first and second circumstances but may exercise judicial discretion as to petitions filed pursuant to the third circumstance.

In general, a police record pertaining to a child under the juvenile court is confidential and maintained separately from adult records. The contents of these records may not be divulged except by court order for good cause shown or specific situations in which police notify school superintendents of the arrest of a student. However, records may still be accessed by DJS or by any law enforcement agency involved in the investigation and prosecution of a child and under specific situations related to writs of attachment to apprehend a child named in the writ.

Background: Juvenile courts are located within the circuit court of each county. According to the Department of Juvenile Service's *FY 2008 Annual Statistical Report*, 330 cases were transferred from adult courts to juvenile courts in fiscal 2008.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2009
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