

HOUSE BILL 825

E3

11r2415
CF 11r2460

By: **Delegate Dumais**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Waiver of Jurisdiction – Appeal**

3 FOR the purpose of repealing a provision providing that an order of the juvenile court
4 waiving its jurisdiction is interlocutory; establishing that an order of the
5 juvenile court waiving its jurisdiction may be appealed to the Court of Special
6 Appeals within a certain period of time; and generally relating to juvenile law
7 and the waiver of juvenile court jurisdiction.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 3–8A–06
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2010 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 3–8A–06.

17 (a) The court may waive the exclusive jurisdiction conferred by § 3–8A–03 of
18 this subtitle with respect to a petition alleging delinquency by:

19 (1) A child who is 15 years old or older; or

20 (2) A child who has not reached his 15th birthday, but who is charged
21 with committing an act which if committed by an adult, would be punishable by death
22 or life imprisonment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The court may not waive its jurisdiction under this section until after it
2 has conducted a waiver hearing, held prior to an adjudicatory hearing and after notice
3 has been given to all parties as prescribed by the Maryland Rules. The waiver hearing
4 is solely to determine whether the court should waive its jurisdiction.

5 (c) (1) Notice of the waiver hearing shall be given to a victim as provided
6 under § 11–104 of the Criminal Procedure Article.

7 (2) (i) A victim may submit a victim impact statement to the court
8 as provided in § 11–402 of the Criminal Procedure Article.

9 (ii) This paragraph does not preclude a victim who has not filed
10 a notification request form under § 11–104 of the Criminal Procedure Article from
11 submitting a victim impact statement to the court.

12 (iii) The court may consider a victim impact statement in
13 determining whether to waive jurisdiction under this section.

14 (d) (1) The court may not waive its jurisdiction under this section unless
15 it determines, from a preponderance of the evidence presented at the hearing, that the
16 child is an unfit subject for juvenile rehabilitative measures.

17 (2) For purposes of determining whether to waive its jurisdiction
18 under this section, the court shall assume that the child committed the delinquent act
19 alleged.

20 (e) In making its determination, the court shall consider the following
21 criteria individually and in relation to each other on the record:

22 (1) Age of the child;

23 (2) Mental and physical condition of the child;

24 (3) The child's amenability to treatment in any institution, facility, or
25 program available to delinquents;

26 (4) The nature of the offense and the child's alleged participation in it;
27 and

28 (5) The public safety.

29 (f) If jurisdiction is waived under this section, the court shall order the child
30 held for trial under the regular procedures of the court which would have jurisdiction
31 over the offense if committed by an adult. The petition alleging delinquency shall be
32 considered a charging document for purposes of detaining the child pending a bail
33 hearing.

1 (g) An order waiving jurisdiction [is interlocutory] **MAY BE APPEALED TO**
2 **THE COURT OF SPECIAL APPEALS WITHIN 30 DAYS AFTER THE ORDER IS**
3 **ISSUED.**

4 (h) If the court has once waived its jurisdiction with respect to a child in
5 accordance with this section, and that child is subsequently brought before the court
6 on another charge of delinquency, the court may waive its jurisdiction in the
7 subsequent proceeding after summary review.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2011.