

SENATE BILL 791

E3

3lr3043
CF HB 916

By: **Senator Kelley**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2013

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law – Dispositions – Placement Guidance**

3 FOR the purpose of prohibiting the juvenile court, except under certain circumstances,
4 from committing a child who has committed a certain offense to the Department
5 of Juvenile Services for out-of-home placement; providing for the construction
6 of this Act; and generally relating to juvenile law.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–8A–19(d)
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2012 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 3–8A–19.

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

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.



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

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

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

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

18 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OR (III)**
19 **OF THIS PARAGRAPH, A CHILD MAY NOT BE COMMITTED TO THE DEPARTMENT**
20 **OF JUVENILE SERVICES FOR OUT-OF-HOME PLACEMENT IF THE MOST SERIOUS**
21 **OFFENSE IS:**

22 1. **POSSESSION OF MARIJUANA UNDER §**
23 **5-601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE;**

24 2. **POSSESSION OR PURCHASE OF A**
25 **NONCONTROLLED SUBSTANCE UNDER § 5-618 OF THE CRIMINAL LAW ARTICLE;**

26 3. **DISTURBING THE PEACE OR DISORDERLY**
27 **CONDUCT UNDER § 10-201 OF THE CRIMINAL LAW ARTICLE;**

28 4. **MALICIOUS DESTRUCTION OF PROPERTY UNDER §**
29 **6-301 OF THE CRIMINAL LAW ARTICLE;**

30 5. **AN OFFENSE INVOLVING INHALANTS UNDER §**
31 **5-708 OF THE CRIMINAL LAW ARTICLE;**

32 6. **AN OFFENSE INVOLVING PROSTITUTION UNDER §**
33 **11-306 OF THE CRIMINAL LAW ARTICLE;**

1 7. THEFT UNDER § 7-104(G)(2) OR (3) OF THE
2 CRIMINAL LAW ARTICLE; OR

3 8. TRESPASS UNDER § 6-402(B)(1) OR § 6-403(C)(1)
4 OF THE CRIMINAL LAW ARTICLE.

5 (ii) A CHILD WHOSE MOST SERIOUS OFFENSE IS AN
6 OFFENSE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE
7 COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES FOR OUT-OF-HOME
8 PLACEMENT IF:

9 1. THE CHILD PREVIOUSLY HAS BEEN ADJUDICATED
10 DELINQUENT FOR THREE OR MORE OFFENSES ARISING FROM SEPARATE AND
11 INDEPENDENT CIRCUMSTANCES;

12 2. THE CHILD WAIVES THE PROHIBITION DESCRIBED
13 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE COURT ACCEPTS THE
14 WAIVER AS KNOWING, INTELLIGENT, AND VOLUNTARY; OR

15 3. THE COURT MAKES A WRITTEN FINDING,
16 ~~INCLUDING THE SPECIFIC FACTS SUPPORTING THE FINDING, THAT SUCH~~
17 ~~PLACEMENT IS NECESSARY FOR THE SAFETY OF THE CHILD OR THE~~
18 ~~PROTECTION OF THE PUBLIC~~ IN ACCORDANCE WITH SUBPARAGRAPH (III) OF
19 THIS PARAGRAPH.

20 (iii) A CHILD WHOSE MOST SERIOUS OFFENSE IS AN
21 OFFENSE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE
22 COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES FOR OUT-OF-HOME
23 PLACEMENT IF THE COURT MAKES A WRITTEN FINDING, INCLUDING THE
24 SPECIFIC FACTS SUPPORTING THE FINDING, THAT AN OUT-OF-HOME
25 PLACEMENT IS NECESSARY FOR THE WELFARE OF THE CHILD OR IN THE
26 INTEREST OF PUBLIC SAFETY.

27 ~~(iii)~~ (iv) THIS PARAGRAPH MAY NOT BE CONSTRUED TO
28 PROHIBIT THE COURT FROM COMMITTING THE CHILD TO ANOTHER
29 APPROPRIATE AGENCY.

30 [(3)] (4) A child committed under paragraph (1)(ii) of this subsection
31 may not be accommodated in a facility that has reached budgeted capacity if a bed is
32 available in another comparable facility in the State, unless the placement to the
33 facility that has reached budgeted capacity has been recommended by the Department
34 of Juvenile Services.

1 **[(4)] (5)** The court shall consider any oral address made in
 2 accordance with § 11–403 of the Criminal Procedure Article or any victim impact
 3 statement, as described in § 11–402 of the Criminal Procedure Article, in determining
 4 an appropriate disposition on a petition.

5 **[(5)] (6)** (i) If the court finds that a child enrolled in a public
 6 elementary or secondary school is delinquent or in need of supervision and commits
 7 the child to the custody or under the guardianship of the Department of Juvenile
 8 Services, the court may notify the county superintendent, the supervisor of pupil
 9 personnel, or any other official designated by the county superintendent of the fact
 10 that the child has been found to be delinquent or in need of supervision and has been
 11 committed to the custody or under the guardianship of the Department of Juvenile
 12 Services.

13 (ii) If the court rescinds the commitment order for a child
 14 enrolled in a public elementary or secondary school, the court may notify the county
 15 superintendent, the supervisor of pupil personnel, or any other official designated by
 16 the county superintendent of the fact that the child is no longer committed to the
 17 custody of the Department of Juvenile Services.

18 (iii) The notice authorized under subparagraphs (i) and (ii) of
 19 this paragraph may not include any order or pleading related to the delinquency or
 20 child in need of supervision case.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.