

# SENATE BILL 791

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By: **Senator Kelley**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

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:

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

21 (ii) Subject to the provisions of [paragraph (2)] **PARAGRAPHS**  
22 **(2) AND (3)** of this subsection, commit the child to the custody or under the  
23 guardianship of the Department of Juvenile Services, the Department of Health and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Mental Hygiene, or a public or licensed private agency on terms that the court  
2 considers appropriate to meet the priorities set forth in § 3–8A–02 of this subtitle,  
3 including designation of the type of facility where the child is to be accommodated,  
4 until custody or guardianship is terminated with approval of the court or as required  
5 under § 3–8A–24 of this subtitle; or

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

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

12 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
13 PARAGRAPH, A CHILD MAY NOT BE COMMITTED TO THE DEPARTMENT OF  
14 JUVENILE SERVICES FOR OUT-OF-HOME PLACEMENT IF THE MOST SERIOUS  
15 OFFENSE IS:

16 1. POSSESSION OF MARIJUANA UNDER §  
17 5–601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE;

18 2. POSSESSION OR PURCHASE OF A  
19 NONCONTROLLED SUBSTANCE UNDER § 5–618 OF THE CRIMINAL LAW ARTICLE;

20 3. DISTURBING THE PEACE OR DISORDERLY  
21 CONDUCT UNDER § 10–201 OF THE CRIMINAL LAW ARTICLE;

22 4. MALICIOUS DESTRUCTION OF PROPERTY UNDER §  
23 6–301 OF THE CRIMINAL LAW ARTICLE;

24 5. AN OFFENSE INVOLVING INHALANTS UNDER §  
25 5–708 OF THE CRIMINAL LAW ARTICLE;

26 6. AN OFFENSE INVOLVING PROSTITUTION UNDER §  
27 11–306 OF THE CRIMINAL LAW ARTICLE;

28 7. THEFT UNDER § 7–104(G)(2) OR (3) OF THE  
29 CRIMINAL LAW ARTICLE; OR

30 8. TRESPASS UNDER § 6–402(B)(1) OR § 6–403(C)(1)  
31 OF THE CRIMINAL LAW ARTICLE.

1                   **(II) A CHILD WHOSE MOST SERIOUS OFFENSE IS AN**  
2 **OFFENSE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE**  
3 **COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES FOR OUT-OF-HOME**  
4 **PLACEMENT IF:**

5                   **1. THE CHILD PREVIOUSLY HAS BEEN ADJUDICATED**  
6 **DELINQUENT FOR THREE OR MORE OFFENSES ARISING FROM SEPARATE AND**  
7 **INDEPENDENT CIRCUMSTANCES;**

8                   **2. THE CHILD WAIVES THE PROHIBITION DESCRIBED**  
9 **IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE COURT ACCEPTS THE**  
10 **WAIVER AS KNOWING, INTELLIGENT, AND VOLUNTARY; OR**

11                   **3. THE COURT MAKES A WRITTEN FINDING,**  
12 **INCLUDING THE SPECIFIC FACTS SUPPORTING THE FINDING, THAT SUCH**  
13 **PLACEMENT IS NECESSARY FOR THE SAFETY OF THE CHILD OR THE**  
14 **PROTECTION OF THE PUBLIC.**

15                   **(III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO**  
16 **PROHIBIT THE COURT FROM COMMITTING THE CHILD TO ANOTHER**  
17 **APPROPRIATE AGENCY.**

18                   **[(3)] (4)** A child committed under paragraph (1)(ii) of this subsection  
19 may not be accommodated in a facility that has reached budgeted capacity if a bed is  
20 available in another comparable facility in the State, unless the placement to the  
21 facility that has reached budgeted capacity has been recommended by the Department  
22 of Juvenile Services.

23                   **[(4)] (5)** The court shall consider any oral address made in  
24 accordance with § 11-403 of the Criminal Procedure Article or any victim impact  
25 statement, as described in § 11-402 of the Criminal Procedure Article, in determining  
26 an appropriate disposition on a petition.

27                   **[(5)] (6)** (i) If the court finds that a child enrolled in a public  
28 elementary or secondary school is delinquent or in need of supervision and commits  
29 the child to the custody or under the guardianship of the Department of Juvenile  
30 Services, the court may notify the county superintendent, the supervisor of pupil  
31 personnel, or any other official designated by the county superintendent of the fact  
32 that the child has been found to be delinquent or in need of supervision and has been  
33 committed to the custody or under the guardianship of the Department of Juvenile  
34 Services.

35                   (ii) If the court rescinds the commitment order for a child  
36 enrolled in a public elementary or secondary school, the court may notify the county  
37 superintendent, the supervisor of pupil personnel, or any other official designated by

1 the county superintendent of the fact that the child is no longer committed to the  
2 custody of the Department of Juvenile Services.

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

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