

SENATE BILL 122

E3

(4lr0092)

ENROLLED BILL

— *Judicial Proceedings/Judiciary* —

Introduced by **Chair, Judicial Proceedings Committee (By Request – Departmental – Juvenile Services)**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law – Detention – Community Detention Violation Hearings**

3 FOR the purpose of requiring an intake officer who authorized detention of a child for
4 a violation of community detention to immediately file a certain petition;
5 requiring that a hearing on a certain petition be held no later than the next
6 court day unless extended under certain circumstances; requiring certain notice
7 of the hearing be given to certain persons; and generally relating to violations of
8 community detention.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–8A–15
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2013 Supplement)

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

3 **Article – Courts and Judicial Proceedings**

4 3–8A–15.

5 (a) Only the court or an intake officer may authorize detention, community
6 detention, or shelter care for a child who may be in need of supervision or delinquent.

7 (b) If a child is taken into custody under this subtitle, the child may be
8 placed in detention or community detention prior to a hearing if:

9 (1) Such action is required to protect the child or others; or

10 (2) The child is likely to leave the jurisdiction of the court.

11 (c) A child taken into custody under this subtitle may be placed in
12 emergency shelter care or community detention prior to a hearing if:

13 (1) (i) Such action is required to protect the child or person and
14 property of others;

15 (ii) The child is likely to leave the jurisdiction of the court; or

16 (iii) There is no parent, guardian, or custodian or other person
17 able to provide supervision and care for the child and return the child to the court
18 when required; and

19 (2) (i) 1. Continuation of the child in the child's home is
20 contrary to the welfare of the child; and

21 2. Removal of the child from the child's home is
22 reasonable under the circumstances due to an alleged emergency situation and in
23 order to provide for the safety of the child; or

24 (ii) 1. Reasonable but unsuccessful efforts have been made
25 to prevent or eliminate the need for removal from the child's home; and

26 2. As appropriate, reasonable efforts are being made to
27 return the child to the child's home.

28 (d) (1) If the child is not released, the intake officer or the official who
29 authorized detention, community detention, or shelter care under this section shall
30 immediately file a petition to authorize continued detention, community detention, or
31 shelter care.

1 (2) A hearing on the petition shall be held not later than the next
2 court day, unless extended for no more than 5 days by the court upon good cause
3 shown.

4 (3) Reasonable notice, oral or written, stating the time, place, and
5 purpose of the hearing, shall be given to the child and, if they can be found, the child's
6 parents, guardian, or custodian.

7 (4) Except as provided in paragraph (5) of this subsection, shelter care
8 may not be ordered for a period of more than 30 days unless an adjudicatory or waiver
9 hearing is held.

10 (5) For a child in need of supervision or a delinquent child, shelter
11 care may be extended for an additional period of not more than 30 days if the court
12 finds after a hearing held as part of the adjudication that continued shelter care is
13 consistent with the circumstances stated in subsections (b) and (c) of this section.

14 (6) (i) An adjudicatory or waiver hearing shall be held no later
15 than 30 days after the date a petition for detention or community detention is granted.

16 (ii) If a child is detained or placed in community detention after
17 an adjudicatory hearing, a disposition hearing shall be held no later than 14 days after
18 the adjudicatory hearing.

19 (iii) Detention or community detention time may be extended in
20 increments of not more than 14 days where the petition charges the child with a
21 delinquent act and where the court finds, after a subsequent hearing, that extended
22 detention or community detention is necessary either:

23 1. For the protection of the child; or

24 2. For the protection of the community.

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

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

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

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

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

4 1. Shelter care; or

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

8 (ii) If a child who has been released by the Department of
9 Juvenile Services or the court into community detention violates the conditions of
10 community detention, and it is necessary to protect the child or others, an intake
11 officer may authorize the detention of the child.

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

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

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

18 (IV) 1. IF A CHILD IS RETURNED TO DETENTION UNDER
19 SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE INTAKE OFFICER WHO
20 AUTHORIZED DETENTION SHALL IMMEDIATELY FILE A PETITION TO AUTHORIZE
21 CONTINUED DETENTION.

22 2. ~~UNLESS EXTENDED BY THE COURT, ON GOOD~~
23 ~~CAUSE SHOWN FOR NO MORE THAN 5 DAYS, A~~ A HEARING ON THE PETITION TO
24 AUTHORIZE CONTINUED DETENTION SHALL BE HELD NO LATER THAN THE NEXT
25 COURT DAY, UNLESS EXTENDED FOR NO MORE THAN 5 DAYS BY THE COURT ON
26 GOOD CAUSE SHOWN.

27 3. REASONABLE NOTICE, ORAL OR WRITTEN,
28 STATING THE TIME, PLACE, AND PURPOSE OF THE HEARING, SHALL BE GIVEN
29 TO THE CHILD AND, IF THEY CAN BE LOCATED, THE CHILD'S PARENTS,
30 GUARDIAN, OR CUSTODIAN.

31 (f) Shelter care may only be continued beyond emergency shelter care if the
32 court has found that:

33 (1) Continuation of the child in the child's home is contrary to the
34 welfare of the child; and

1 (v) Drug and alcohol abuse assessment or treatment services.

2 (4) In addition to any other provision, the regulations shall require:

3 (i) The Department of Juvenile Services to develop a plan
4 within 45 days of placement of a child in a shelter care facility to assess the child's
5 treatment needs; and

6 (ii) The plan to be submitted to all parties to the petition and
7 their counsel.

8 (i) The intake officer or the official who authorized detention, community
9 detention, or shelter care under this subtitle shall immediately give written notice of
10 the authorization for detention, community detention, or shelter care to the child's
11 parent, guardian, or custodian and to the court. The notice shall be accompanied by a
12 statement of the reasons for taking the child into custody and placing him in
13 detention, community detention, or shelter care. This notice may be combined with the
14 notice required under subsection (d) of this section.

15 (j) (1) If a child is alleged to have committed a delinquent act, the court
16 or a juvenile intake officer shall consider including, as a condition of releasing the
17 child pending an adjudicatory or disposition hearing, reasonable protections for the
18 safety of the alleged victim.

19 (2) If a victim has requested reasonable protections for safety, the
20 court or juvenile intake officer shall consider including, as a condition of releasing the
21 child pending an adjudicatory or disposition hearing, provisions regarding no contact
22 with the alleged victim or the alleged victim's premises or place of employment.

23 (k) If a child remains in a facility used for detention for the specific act for
24 which the child has been adjudicated delinquent for more than 25 days after the court
25 has made a disposition on a petition under § 3-8A-19 of this subtitle, the Department
26 of Juvenile Services shall:

27 (1) On the first available court date after the 25th day that the child
28 remains in a facility used for detention, appear at a hearing before the court with the
29 child to explain the reasons for continued detention; and

30 (2) Every 25 days thereafter, appear at another hearing before the
31 court with the child to explain the reasons for continued detention.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2014.