

# SENATE BILL 122

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(PRE-FILED)

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

Requested: November 8, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: January 10, 2014

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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)

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

16 **Article – Courts and Judicial Proceedings**

17 3–8A–15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 17                                   1.    For the protection of the child; or  
18                                   2.    For the protection of the community.

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

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

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

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

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

- 31                                   1.    Shelter care; or

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

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

8                   (iii)   The Department of Juvenile Services shall promptly notify  
9 the court of:

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

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

14                   **(IV) 1.     IF A CHILD IS RETURNED TO DETENTION UNDER**  
15 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE INTAKE OFFICER WHO**  
16 **AUTHORIZED DETENTION SHALL IMMEDIATELY FILE A PETITION TO AUTHORIZE**  
17 **CONTINUED DETENTION.**

18                   **2.     UNLESS EXTENDED BY THE COURT, ON GOOD**  
19 **CAUSE SHOWN FOR NO MORE THAN 5 DAYS, A HEARING ON THE PETITION TO**  
20 **AUTHORIZE CONTINUED DETENTION SHALL BE HELD NO LATER THAN THE NEXT**  
21 **COURT DAY.**

22                   **3.     REASONABLE NOTICE, ORAL OR WRITTEN,**  
23 **STATING THE TIME, PLACE, AND PURPOSE OF THE HEARING, SHALL BE GIVEN**  
24 **TO THE CHILD AND, IF THEY CAN BE LOCATED, THE CHILD'S PARENTS,**  
25 **GUARDIAN, OR CUSTODIAN.**

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

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

30                   (2)     (i)     Removal of the child from the child's home is necessary due  
31 to an alleged emergency situation and in order to provide for the safety of the child; or

32                   (ii)    Reasonable but unsuccessful efforts were made to prevent or  
33 eliminate the need for removal of the child from the home.

1                   (3)   (i)    If the court continues shelter care on the basis of an alleged  
2 emergency, the court shall assess whether the absence of efforts to prevent removal  
3 was reasonable.

4                   (ii)   If the court finds that the absence of efforts to prevent  
5 removal was not reasonable, the court shall make a written determination so stating.

6                   (4)    The court shall make a determination as to whether reasonable  
7 efforts are being made to make it possible to return the child to the child's home or  
8 whether the absence of such efforts is reasonable.

9                   (g)    A child alleged to be delinquent may not be detained in a jail or other  
10 facility for the detention of adults.

11           (h)    (1)    A child alleged to be in need of supervision may not be placed in:

12                   (i)    Detention or community detention;

13                   (ii)   A State mental health facility; or

14                   (iii)  A shelter care facility that is not operating in compliance  
15 with applicable State licensing laws.

16                   (2)    Subject to paragraph (1)(iii) of this subsection, a child alleged to be  
17 in need of supervision may be placed in shelter care facilities maintained or approved  
18 by the Social Services Administration or the Department of Juvenile Services or in a  
19 private home or shelter care facility approved by the court.

20                   (3)    The Secretary of Human Resources and the Secretary of Juvenile  
21 Services together, when appropriate, with the Secretary of Health and Mental  
22 Hygiene shall jointly adopt regulations to ensure that any child placed in shelter care  
23 pursuant to a petition filed under subsection (d) of this section be provided appropriate  
24 services, including:

25                   (i)    Health care services;

26                   (ii)   Counseling services;

27                   (iii)  Education services;

28                   (iv)   Social work services; and

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

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

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

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

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

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

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

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

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

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

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