

HOUSE BILL 827

E3

8lr3068
CF SB 669

By: **Delegate West**

Introduced and read first time: February 2, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Juvenile Diversion Program**

3 FOR the purpose of authorizing a court exercising criminal jurisdiction in a certain case
4 involving a child to suspend the sentence and place the child under the supervision
5 of the Department of Juvenile Services for a certain period of time for enrollment in
6 the Juvenile Diversion Program established by this Act; specifying that supervision
7 by the Department may not continue after the child reaches a certain age; requiring
8 the court to hold a hearing before placing a child under the supervision of the
9 Department for enrollment in the Juvenile Diversion Program; requiring a certain
10 caseworker to advise the child of certain responsibilities of enrollment in the
11 Juvenile Diversion Program; authorizing the child to choose to enroll in the Juvenile
12 Diversion Program or serve the criminal sentence imposed by the court; requiring
13 the court to take certain actions when a child successfully completes or fails to
14 successfully complete the Juvenile Diversion Program; requiring that any time
15 served by the child under the supervision of the Department be credited against any
16 sentence of incarceration imposed by the court; requiring the Department to
17 establish a Juvenile Diversion Program; requiring the Program to provide certain
18 services to each child enrolled in the Program; establishing a Special Services
19 Committee of the Juvenile Diversion Program; providing for the composition and
20 duties of the Committee; requiring the Department to certify to the court whether a
21 child successfully completed or failed to successfully complete the Juvenile Diversion
22 Program; requiring a child to be released from the Program under certain
23 circumstances; requiring the child to enter into a certain aftercare program under
24 certain circumstances; specifying the requirements of a certain aftercare program;
25 and generally relating to the establishment of a Juvenile Diversion Program as an
26 alternative to incarceration for certain children convicted of certain crimes.

27 BY repealing and reenacting, without amendments,
28 Article – Courts and Judicial Proceedings
29 Section 3–8A–03(d)
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2013 Replacement Volume and 2017 Supplement)

2 BY adding to

3 Article – Criminal Procedure

4 Section 4–202.3

5 Annotated Code of Maryland

6 (2008 Replacement Volume and 2017 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Human Services

9 Section 9–240.1

10 Annotated Code of Maryland

11 (2007 Volume and 2017 Supplement)

12 BY adding to

13 Article – Human Services

14 Section 9–247

15 Annotated Code of Maryland

16 (2007 Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 3–8A–03.

21 (d) The court does not have jurisdiction over:

22 (1) A child at least 14 years old alleged to have done an act which, if
23 committed by an adult, would be a crime punishable by life imprisonment, as well as all
24 other charges against the child arising out of the same incident, unless an order removing
25 the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article;

26 (2) A child at least 16 years old alleged to have done an act in violation of
27 any provision of the Transportation Article or other traffic law or ordinance, except an act
28 that prescribes a penalty of incarceration;

29 (3) A child at least 16 years old alleged to have done an act in violation of
30 any provision of law, rule, or regulation governing the use or operation of a boat, except an
31 act that prescribes a penalty of incarceration;

32 (4) A child at least 16 years old alleged to have committed any of the
33 following crimes, as well as all other charges against the child arising out of the same
34 incident, unless an order removing the proceeding to the court has been filed under §
35 4–202 of the Criminal Procedure Article:

- 1 (i) Abduction;
- 2 (ii) Kidnapping;
- 3 (iii) Second degree murder;
- 4 (iv) Manslaughter, except involuntary manslaughter;
- 5 (v) Second degree rape;
- 6 (vi) Robbery under § 3–403 of the Criminal Law Article;
- 7 (vii) Second degree sexual offense under § 3–306(a)(1) of the Criminal
8 Law Article;
- 9 (viii) Third degree sexual offense under § 3–307(a)(1) of the Criminal
10 Law Article;
- 11 (ix) A crime in violation of § 5–133, § 5–134, § 5–138, or § 5–203 of
12 the Public Safety Article;
- 13 (x) Using, wearing, carrying, or transporting a firearm during and
14 in relation to a drug trafficking crime under § 5–621 of the Criminal Law Article;
- 15 (xi) Use of a firearm under § 5–622 of the Criminal Law Article;
- 16 (xii) Carjacking or armed carjacking under § 3–405 of the Criminal
17 Law Article;
- 18 (xiii) Assault in the first degree under § 3–202 of the Criminal Law
19 Article;
- 20 (xiv) Attempted murder in the second degree under § 2–206 of the
21 Criminal Law Article;
- 22 (xv) Attempted rape in the second degree under § 3–310 of the
23 Criminal Law Article;
- 24 (xvi) Attempted robbery under § 3–403 of the Criminal Law Article; or
- 25 (xvii) A violation of § 4–203, § 4–204, § 4–404, or § 4–405 of the
26 Criminal Law Article;
- 27 (5) A child who previously has been convicted as an adult of a felony and is
28 subsequently alleged to have committed an act that would be a felony if committed by an
29 adult, unless an order removing the proceeding to the court has been filed under § 4–202 of
30 the Criminal Procedure Article; or

1 (6) A peace order proceeding in which the victim, as defined in §
2 3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the
3 Family Law Article.

4 **Article – Criminal Procedure**

5 **4-202.3.**

6 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
7 AND SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION AND
8 SUBSECTION (B) OF THIS SECTION, AT SENTENCING, A COURT EXERCISING
9 CRIMINAL JURISDICTION IN A CASE INVOLVING A CHILD THAT WAS EXCLUDED FROM
10 THE JURISDICTION OF THE JUVENILE COURT UNDER § 3-8A-03(D)(4) OF THE
11 COURTS ARTICLE MAY SUSPEND THE SENTENCE AND PLACE THE CHILD UNDER THE
12 SUPERVISION OF THE DEPARTMENT OF JUVENILE SERVICES FOR A DEFINITE
13 PERIOD OF TIME, NOT TO EXCEED 18 MONTHS, FOR ENROLLMENT IN THE JUVENILE
14 DIVERSION PROGRAM ESTABLISHED UNDER § 9-247 OF THE HUMAN SERVICES
15 ARTICLE.

16 (2) THIS SECTION DOES NOT APPLY TO A CHILD WHO WAS CONVICTED
17 OF:

18 (I) SECOND DEGREE MURDER OR ATTEMPTED MURDER IN THE
19 SECOND DEGREE;

20 (II) SECOND DEGREE RAPE OR ATTEMPTED RAPE IN THE
21 SECOND DEGREE; OR

22 (III) ANY SEXUAL OFFENSE.

23 (3) SUPERVISION BY THE DEPARTMENT OF JUVENILE SERVICES MAY
24 NOT CONTINUE AFTER THE CHILD REACHES THE AGE OF 21 YEARS.

25 (B) (1) THE COURT SHALL HOLD A HEARING BEFORE PLACING A CHILD
26 UNDER THE SUPERVISION OF THE DEPARTMENT OF JUVENILE SERVICES FOR
27 ENROLLMENT IN THE JUVENILE DIVERSION PROGRAM.

28 (2) (I) AT THE HEARING, A CASEWORKER FOR THE JUVENILE
29 DIVERSION PROGRAM SHALL ADVISE THE CHILD OF THE RESPONSIBILITIES OF
30 ENROLLMENT IN THE PROGRAM.

31 (II) AFTER BEING ADVISED BY THE CASEWORKER, THE CHILD
32 MAY CHOOSE TO:

1 1. **ENROLL IN THE PROGRAM; OR**

2 2. **SERVE THE SENTENCE IMPOSED BY THE COURT.**

3 **(C) ON SUCCESSFUL COMPLETION OF THE JUVENILE DIVERSION**
4 **PROGRAM AS CERTIFIED BY THE DEPARTMENT OF JUVENILE SERVICES UNDER §**
5 **9-247 OF THE HUMAN SERVICES ARTICLE, THE COURT SHALL:**

6 **(1) ENTER AN ORDER STRIKING THE ENTRY OF JUDGMENT; AND**

7 **(2) PLACE THE CHILD UNDER THE SUPERVISION OF THE**
8 **DEPARTMENT OF JUVENILE SERVICES FOR PURPOSES OF PARTICIPATING IN AN**
9 **AFTERCARE PROGRAM UNDER § 9-247(E) OF THE HUMAN SERVICES ARTICLE.**

10 **(D) (1) IF, AFTER A HEARING, THE COURT FINDS THAT THE CHILD FAILED**
11 **TO SUCCESSFULLY COMPLETE THE JUVENILE DIVERSION PROGRAM AS CERTIFIED**
12 **BY THE DEPARTMENT OF JUVENILE SERVICES UNDER § 9-247 OF THE HUMAN**
13 **SERVICES ARTICLE, THE COURT SHALL IMPOSE ANY SENTENCE THAT WAS**
14 **ORIGINALLY IMPOSED FOR THE CRIME FOR WHICH THE CHILD WAS CONVICTED.**

15 **(2) ANY TIME SERVED BY THE CHILD UNDER THE SUPERVISION OF**
16 **THE DEPARTMENT OF JUVENILE SERVICES SHALL BE CREDITED AGAINST ANY**
17 **SENTENCE OF INCARCERATION IMPOSED BY THE COURT.**

18 **Article – Human Services**

19 9-240.1.

20 (a) (1) The Secretary shall establish a Program to attempt to provide a
21 volunteer mentor for each child in the State who has spent at least 30 days in a committed
22 placement.

23 (2) The Program shall be called “Maryland Rising”.

24 (b) The purpose of the Program is to provide individualized attention to a child:

25 (1) to decrease the child’s delinquent or violent behavior in the community;
26 and

27 (2) to increase the child’s potential for becoming a productive, successful
28 member of the community.

29 (c) (1) To carry out the purpose of the Program, the Department shall develop
30 a statewide network of State agencies, community agencies, citizen action groups, social

1 services providers, volunteer organizations, college student groups, and other groups who
2 will recruit volunteer mentors for the Program.

3 (2) A mentor shall have frequent contact with the child and may provide
4 the following services to the child:

5 (i) informal counseling;

6 (ii) tutoring;

7 (iii) assisting the child with life skills training;

8 (iv) working with the child's family or guardian;

9 (v) interacting with the child's school or employer, if necessary; and

10 (vi) other individualized support services that help the child avoid
11 negative behaviors and become a successful, productive member of the community.

12 (d) The Department may adopt regulations to implement this section.

13 **9-247.**

14 **(A) THE DEPARTMENT SHALL ESTABLISH A JUVENILE DIVERSION**
15 **PROGRAM TO PROVIDE AN ALTERNATIVE TO IMPRISONMENT FOR A CHILD PLACED**
16 **UNDER THE SUPERVISION OF THE DEPARTMENT UNDER § 4-202.3 OF THE**
17 **CRIMINAL PROCEDURE ARTICLE.**

18 **(B) THE PROGRAM SHALL PROVIDE THE FOLLOWING SERVICES TO EACH**
19 **CHILD ENROLLED IN THE PROGRAM:**

20 **(1) INDIVIDUAL CASE MANAGEMENT BY A CASEWORKER;**

21 **(2) INDIVIDUAL PSYCHIATRIC OR PSYCHOLOGICAL COUNSELING, IF**
22 **APPROPRIATE;**

23 **(3) GROUP COUNSELING WITH A QUALIFIED PSYCHOLOGIST AND**
24 **THERAPIST;**

25 **(4) AN EDUCATIONAL CURRICULUM CONSISTING OF AT LEAST 25**
26 **HOURS OF CLASSROOM EDUCATION PER WEEK;**

27 **(5) RESOCIALIZATION PROGRAMS;**

28 **(6) PSYCHOLOGICAL EVALUATIONS;**

- 1 **(7) PROGRAMS AIMED AT DEMONSTRATING ATONEMENT TO VICTIMS;**
- 2 **(8) MANDATORY DRUG TESTING;**
- 3 **(9) VOCATIONAL TRAINING;**
- 4 **(10) PARTICIPATION IN ORGANIZED ATHLETICS; AND**
- 5 **(11) ANY OTHER NECESSARY PROGRAMS OR SERVICES.**

6 **(C) (1) THERE SHALL BE A SPECIAL SERVICES COMMITTEE OF THE**
7 **JUVENILE DIVERSION PROGRAM COMPOSED OF:**

- 8 **(I) THE DIRECTOR OF THE PROGRAM;**
- 9 **(II) PROGRAM ADMINISTRATORS;**
- 10 **(III) THE CHILD'S ASSIGNED CASEWORKER;**
- 11 **(IV) AN AFTERCARE COORDINATOR;**
- 12 **(V) ANY OTHER NECESSARY TREATMENT STAFF; AND**
- 13 **(VI) A VICTIM OR VICTIM'S REPRESENTATIVE.**

14 **(2) THE COMMITTEE SHALL MEET QUARTERLY TO DISCUSS THE**
15 **PROGRESS OF EACH CHILD IN THE PROGRAM.**

16 **(3) THE COMMITTEE SHALL EVALUATE:**

17 **(I) WHETHER THE CHILD SUCCESSFULLY COMPLETED THE**
18 **PROGRAMS AND SERVICES DESCRIBED IN SUBSECTION (B) OF THIS SECTION; AND**

19 **(II) WHETHER THE PSYCHOLOGICAL EVALUATIONS INDICATE**
20 **THAT THE CHILD HAS A LOW RISK OF REOFFENDING.**

21 **(4) (I) IF THE CHILD SUCCESSFULLY COMPLETES THE PROGRAM**
22 **REQUIREMENTS, THE COMMITTEE MAY RECOMMEND THAT THE CHILD BE**
23 **RELEASED FROM THE PROGRAM.**

24 **(II) IF THE CHILD FAILS TO SUCCESSFULLY COMPLETE THE**
25 **PROGRAM REQUIREMENTS, THE COMMITTEE MAY RECOMMEND THAT THE CHILD BE**

1 REFERRED TO THE COURT FOR A HEARING UNDER § 4-202.3(D) OF THE CRIMINAL
2 PROCEDURE ARTICLE.

3 (5) A RECOMMENDATION OF THE COMMITTEE UNDER PARAGRAPH
4 (3) OR (4) OF THIS SUBSECTION SHALL BE REFERRED TO THE DEPARTMENT.

5 (D) AFTER RECEIVING A RECOMMENDATION OF THE COMMITTEE UNDER
6 SUBSECTION (C)(3) OR (4) OF THIS SECTION, THE DEPARTMENT SHALL CERTIFY TO
7 THE COURT UNDER § 4-202.3 OF THE CRIMINAL PROCEDURE ARTICLE WHETHER
8 THE CHILD SUCCESSFULLY COMPLETED OR FAILED TO SUCCESSFULLY COMPLETE
9 THE PROGRAM REQUIREMENTS.

10 (E) (1) ON SUCCESSFUL COMPLETION, THE CHILD SHALL BE RELEASED
11 FROM THE PROGRAM AND ENROLL IN AN AFTERCARE PROGRAM IN ACCORDANCE
12 WITH § 4-202.3(C) OF THE CRIMINAL PROCEDURE ARTICLE.

13 (2) THE AFTERCARE PROGRAM SHALL CONSIST OF:

14 (I) WEEKLY MEETINGS WITH THE CHILD'S CASEWORKER;

15 (II) DRUG TESTING; AND

16 (III) A MENTORSHIP PROGRAM UNDER THE MARYLAND
17 RISING PROGRAM UNDER § 9-240.1 OF THE HUMAN SERVICES ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.