

SENATE BILL 624

E3, E2

9lr1882

By: **Senator Carter**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juveniles Charged as Adults – Transfer of Jurisdiction – Community Detention**

3 FOR the purpose of authorizing a court exercising criminal jurisdiction in a case involving
4 a child to order that the child be placed in community detention pending a certain
5 determination; establishing a certain exception to the requirement that a certain
6 court order a child to be held in a secure juvenile facility under certain
7 circumstances; requiring that a certain finding by a certain court be based on certain
8 facts; establishing a certain exception to the requirement that the District Court
9 order a child to be held in a secure juvenile facility under certain circumstances;
10 requiring a certain detention facility to provide certain supervision of a child and
11 hold a child in a certain ward of the facility under certain circumstances; altering
12 the definition of “community detention”; defining a certain term; and generally
13 relating to juveniles charged as adults and community detention.

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 3–8A–01(h) and 3–8A–15(a)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2018 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Procedure
21 Section 4–202(a), (h), and (j)
22 Annotated Code of Maryland
23 (2018 Replacement Volume)

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

26 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-8A-01.

2 (h) (1) "Community detention" means a program monitored by the
3 Department of Juvenile Services in which a delinquent child [or], a child alleged to be
4 delinquent, **OR, PENDING A TRANSFER DETERMINATION UNDER § 4-202 OF THE**
5 **CRIMINAL PROCEDURE ARTICLE, A CHILD CHARGED WITH A CRIME** is placed in the
6 home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition
7 of probation or as an alternative to detention.

8 (2) "Community detention" includes electronic monitoring.

9 3-8A-15.

10 (a) (1) **[Only] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
11 **SUBSECTION, ONLY** the court or an intake officer may authorize detention, community
12 detention, or shelter care for a child who may be in need of supervision or delinquent.

13 (2) **A COURT EXERCISING CRIMINAL JURISDICTION IN A CASE**
14 **INVOLVING A CHILD MAY ORDER THAT THE CHILD BE PLACED IN COMMUNITY**
15 **DETENTION PENDING A TRANSFER DETERMINATION UNDER § 4-202 OF THE**
16 **CRIMINAL PROCEDURE ARTICLE.**

17 Article – Criminal Procedure

18 4-202.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) **"COMMUNITY DETENTION" HAS THE MEANING STATED IN §**
21 **3-8A-01 OF THE COURTS ARTICLE.**

22 (3) "Victim" has the meaning stated in § 11-104 of this article.

23 ~~(3)~~ (4) "Victim's representative" has the meaning stated in § 11-104 of
24 this article.

25 (h) (1) Pending a determination under this section to transfer its jurisdiction,
26 the court shall order the child to be held in a secure juvenile facility unless:

27 (i) the child is released on bail, recognizance, or other conditions of
28 pretrial release;

29 (ii) there is not available capacity in a secure juvenile facility, as
30 determined by the Department of Juvenile Services; **[or]**

1 (iii) the court finds, **BASED ON FACTS OTHER THAN THOSE THAT**
2 **GAVE RISE TO THE CHARGES IN THE CASE AGAINST THE CHILD**, that detention in a
3 secure juvenile facility would pose a risk of harm to the child or others; **OR**

4 **(IV) THE COURT ORDERS THAT THE CHILD BE PLACED IN**
5 **COMMUNITY DETENTION.**

6 (2) If the court makes a finding under paragraph (1)(iii) of this subsection
7 that detention in a secure juvenile facility would pose a risk of harm to the child or others,
8 the court shall state the reasons for the finding on the record.

9 **(3) IF THE COURT ORDERS THE CHILD TO BE HELD IN A DETENTION**
10 **FACILITY THAT ALSO HOLDS ADULTS, THE DETENTION FACILITY SHALL:**

11 **(I) PROVIDE ADEQUATE SUPERVISION OF THE CHILD TO**
12 **ENSURE THE CHILD'S SAFETY; AND**

13 **(II) HOLD THE CHILD IN A WARD OF THE FACILITY THAT IS**
14 **ENTIRELY SEPARATE FROM THE ADULTS HELD AT THE FACILITY.**

15 (j) (1) Regardless of whether the District Court has jurisdiction over the case,
16 at a bail review or preliminary hearing before the District Court involving a child whose
17 case is eligible for transfer under subsection (b) of this section, the District Court:

18 (i) may order that a study be made under the provisions of
19 subsection (e) of this section; and

20 (ii) shall order that the child be held in a secure juvenile facility
21 pending a transfer determination under this section unless:

22 1. the child is released on bail, recognizance, or other
23 conditions of pretrial release;

24 2. there is not available capacity at a secure juvenile facility
25 as determined by the Department of Juvenile Services; [or]

26 3. the District Court finds that detention in a secure juvenile
27 facility would pose a risk of harm to the child or others; **OR**

28 **4. THE DISTRICT COURT ORDERS THAT THE CHILD BE**
29 **PLACED IN COMMUNITY DETENTION.**

30 (2) If the District Court makes a finding under paragraph (1)(ii)3 of this
31 subsection that detention in a secure juvenile facility would pose a risk of harm to the child
32 or others, the District Court shall state the reasons for the finding on the record.

1 **(3) IF THE DISTRICT COURT ORDERS THE CHILD TO BE HELD IN A**
2 **DETENTION FACILITY THAT ALSO HOLDS ADULTS, THE DETENTION FACILITY SHALL:**

3 **(I) PROVIDE ADEQUATE SUPERVISION OF THE CHILD TO**
4 **ENSURE THE CHILD’S SAFETY; AND**

5 **(II) HOLD THE CHILD IN A WARD OF THE FACILITY THAT IS**
6 **ENTIRELY SEPARATE FROM ADULTS HELD AT THE FACILITY.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2019.