

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1338
Judiciary

(Delegate Dumais)

Juvenile Court - Jurisdiction - Adults

This bill repeals the jurisdiction of the juvenile court over an adult who is alleged to have willfully contributed to, encouraged, caused, or tended to cause any act, omission, or condition that (1) results in specified violations or (2) renders a child to be delinquent, in need of supervision, or a child in need of assistance (CINA).

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State government operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law/Bill Summary:

Child in Need of Assistance

A CINA is a child who requires court intervention because (1) the child has been abused or neglected, has a developmental disability, or has a mental disorder and (2) the child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs. Under § 3-828 of the Courts and Judicial Proceedings

Article, an adult may not willfully contribute to, encourage, cause, or tend to cause any act, omission, or condition that renders a child to be a CINA. An adult who violates these provisions is guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$2,500 maximum fine. A person may be convicted under these provisions even if the child is not adjudicated a CINA.

Under current law, the juvenile court has concurrent jurisdiction over proceedings against an adult for a violation of § 3-828. The court may waive its jurisdiction on its own motion or on the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in criminal court. On motion by the State's Attorney or the adult charged, the court must waive its jurisdiction, and the adult must be tried in criminal court according to the usual criminal procedure. According to statute, the age of the child at the time a State's Attorney files a petition alleging a violation of § 3-828 controls the determination of jurisdiction. The bill repeals these provisions, thereby eliminating the concurrent jurisdiction of the juvenile court, and makes other conforming changes, including transferring the provisions regarding the prohibition to the Criminal Law Article.

Violations, Child in Need of Supervision, and Delinquent Children

A "violation" is a violation for which a citation is issued to a child under specified statutory provisions, including provisions involving the use or possession of less than 10 grams of marijuana and various alcoholic beverages prohibitions. A "child in need of supervision" is a child who requires guidance, treatment, or rehabilitation and (1) is required by law to attend school and is habitually truant; (2) is habitually disobedient, ungovernable, and beyond the control of the person who has custody of the child; (3) departs himself/herself so as to injure or endanger self or others; or (4) has committed an offense applicable only to children. A delinquent child is a child who has committed an act, which would be a crime if committed by an adult.

Under § 3-8A-30 of the Courts and Judicial Proceedings Article, it is unlawful for an adult to willfully contribute to, encourage, cause, or tend to cause any act, omission, or condition, which results in a violation or renders a child delinquent or in need of supervision. An adult who violates these provisions is guilty of a misdemeanor, punishable by imprisonment of up to three years and/or a \$2,500 maximum fine. A person may be convicted under these provisions regardless of whether the child is found to have committed a violation or adjudicated delinquent or in need of supervision.

Under current law, the juvenile court has concurrent jurisdiction over proceedings against adults who violate § 3-8A-30. However, the court *may* waive its jurisdiction and *must* waive its jurisdiction under specified circumstances that align with those set forth above regarding violations of § 3-828. The bill repeals these provisions, thereby eliminating the

concurrent jurisdiction of the juvenile court, and makes other conforming changes, including transferring the provisions regarding the prohibition to the Criminal Law Article.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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