

HOUSE BILL 459

E3

2lr1704

By: **Delegate Clippinger**

Introduced and read first time: January 20, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 23, 2022

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Justice Reform**

3 FOR the purpose of altering provisions of law relating to the jurisdiction of the juvenile
4 court, the juvenile intake process, and the placement of a certain child in detention
5 or community detention; altering provisions of law relating to the authority of the
6 juvenile court in making a disposition on a certain petition; specifying the authority
7 of the juvenile court to place a child on probation under certain circumstances;
8 requiring the Governor's Office of Crime Prevention, Youth, and Victim Services to
9 request and analyze certain data, develop a model policy for diversion of juveniles
10 from the juvenile and criminal justice systems, and submit certain reports;
11 establishing the Commission on Juvenile Justice Reform and Emerging and Best
12 Practices; requiring the Department of Juvenile Services to provide a certain report
13 to the General Assembly; and generally relating to juvenile justice.

14 BY repealing and reenacting, with amendments,

15 Article – Courts and Judicial Proceedings

16 Section 3–8A–03, 3–8A–10(c)(4) and (e), 3–8A–15(b) and (f) through (l),
17 3–8A–19(d)(1)(i) and (3), and 3–8A–27(a)(2)(iv)

18 Annotated Code of Maryland

19 (2020 Replacement Volume and 2021 Supplement)

20 BY adding to

21 Article – Courts and Judicial Proceedings

22 Section 3–8A–10(n), 3–8A–15(l), 3–8A–19.6, and 3–8A–19.7

23 Annotated Code of Maryland

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 (2020 Replacement Volume and 2021 Supplement)
- 2 BY repealing
- 3 Article – Courts and Judicial Proceedings
- 4 Section 3–8A–15(e)
- 5 Annotated Code of Maryland
- 6 (2020 Replacement Volume and 2021 Supplement)
- 7 BY repealing and reenacting, with amendments,
- 8 Article – Criminal Procedure
- 9 Section 4–202(b), (c), and (i)(1), 4–202.2(a), 10–215(a)(20), and 10–216(d)(1)
- 10 Annotated Code of Maryland
- 11 (2018 Replacement Volume and 2021 Supplement)
- 12 BY repealing and reenacting, with amendments,
- 13 Article – Education
- 14 Section 7–303(a)(6)(ii)
- 15 Annotated Code of Maryland
- 16 (2018 Replacement Volume and 2021 Supplement)
- 17 BY adding to
- 18 Article – Public Safety
- 19 Section 3–530
- 20 Annotated Code of Maryland
- 21 (2018 Replacement Volume and 2021 Supplement)
- 22 BY adding to
- 23 Article – State Government
- 24 Section 9–3501 and 9–3502 to be under the new subtitle “Subtitle 35. Commission
- 25 on Juvenile Justice Reform and Emerging and Best Practices”
- 26 Annotated Code of Maryland
- 27 (2021 Replacement Volume)

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

29 That the Laws of Maryland read as follows:

30 **Article – Courts and Judicial Proceedings**

31 3–8A–03.

32 ~~(a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CHILD UNDER~~

33 ~~THE AGE OF 13 YEARS:~~

34 ~~(1) IS NOT SUBJECT TO THE JURISDICTION OF THE COURT UNDER~~

35 ~~THIS SUBTITLE; AND~~

36 ~~(2) MAY NOT BE CHARGED WITH A CRIME.~~

1 ~~(B)~~ In addition to the jurisdiction specified in Subtitle 8 of this title, the court has
 2 exclusive original jurisdiction over:

3 ~~(1)~~ A child who is ~~[alleged]~~ **AT LEAST 13 YEARS OLD;**

4 ~~(I)~~ **ALLEGED** to be delinquent or in need of supervision; or ~~[who]~~

5 ~~(H)~~ **WHO** has received a citation for a violation;

6 ~~(2)~~ **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A**
 7 **CHILD WHO IS AT LEAST 10 YEARS OLD ALLEGED TO HAVE DONE AN ACT:**

8 ~~(I)~~ **THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE:**

9 **1. A CRIME PUNISHABLE BY LIFE IMPRISONMENT;**

10 **2. FIRST DEGREE CHILD ABUSE UNDER § 3-601 OF THE**
 11 **CRIMINAL LAW ARTICLE;**

12 **3. SEXUAL ABUSE OF A MINOR UNDER § 3-602(B) OF THE**
 13 **CRIMINAL LAW ARTICLE;**

14 **4. SECOND DEGREE MURDER UNDER § 2-204 OF THE**
 15 **CRIMINAL LAW ARTICLE;**

16 **5. ARMED CARJACKING UNDER § 3-405 OF THE**
 17 **CRIMINAL LAW ARTICLE;**

18 **6. SECOND DEGREE RAPE UNDER § 3-304 OF THE**
 19 **CRIMINAL LAW ARTICLE;**

20 **7. CONTINUING COURSE OF CONDUCT WITH A CHILD**
 21 **UNDER § 3-315 OF THE CRIMINAL LAW ARTICLE; OR**

22 **8. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307 OF**
 23 **THE CRIMINAL LAW ARTICLE; OR**

24 ~~(H)~~ **ARISING OUT OF THE SAME INCIDENT AS AN ACT LISTED IN**
 25 **ITEM (I)1 THROUGH 8 OF THIS ITEM;**

26 ~~(3)~~ Except as provided in subsection ~~[(d)(6)] (E)(6)~~ of this section, a peace
 27 order proceeding in which the respondent is a child; and

28 ~~[(3)] (4)~~ Proceedings arising under the Interstate Compact on Juveniles.

~~[(b)] (C) The court has concurrent jurisdiction over proceedings against an adult for the violation of § 3-8A-30 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by either the State's Attorney or the adult charged under § 3-8A-30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure.~~

~~[(e)] (D) The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this State.~~

~~[(d)] (E) The court does not have jurisdiction over:~~

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

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

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

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

~~(i) Abduction;~~

~~(ii) Kidnapping;~~

~~(iii) Second degree murder;~~

~~(iv) Manslaughter, except involuntary manslaughter;~~

~~(v) Second degree rape;~~

~~(vi) Robbery under § 3-403 of the Criminal Law Article;~~

~~(vii) Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;~~

1 (viii) ~~A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of~~
2 ~~the Public Safety Article;~~

3 (ix) ~~Using, wearing, carrying, or transporting a firearm during and~~
4 ~~in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;~~

5 (x) ~~Use of a firearm under § 5-622 of the Criminal Law Article;~~

6 (xi) ~~Carjacking or armed carjacking under § 3-405 of the Criminal~~
7 ~~Law Article;~~

8 (xii) ~~Assault in the first degree under § 3-202 of the Criminal Law~~
9 ~~Article;~~

10 (xiii) ~~Attempted murder in the second degree under § 2-206 of the~~
11 ~~Criminal Law Article;~~

12 (xiv) ~~Attempted rape in the second degree under § 3-310 of the~~
13 ~~Criminal Law Article;~~

14 (xv) ~~Attempted robbery under § 3-403 of the Criminal Law Article; or~~

15 (xvi) ~~A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the~~
16 ~~Criminal Law Article;~~

17 (5) ~~A child who previously has been convicted as an adult of a felony and is~~
18 ~~subsequently alleged to have committed an act that would be a felony if committed by an~~
19 ~~adult, unless an order removing the proceeding to the court has been filed under § 4-202 of~~
20 ~~the Criminal Procedure Article; or~~

21 (6) ~~A peace order proceeding in which the victim, as defined in §~~
22 ~~3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the~~
23 ~~Family Law Article.~~

24 ~~[(c)] (F) If the child is charged with two or more violations of the Maryland~~
25 ~~Vehicle Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out~~
26 ~~of the same incident and which would result in the child being brought before both the court~~
27 ~~and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of~~
28 ~~the charges.~~

29 (a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has
30 exclusive original jurisdiction over:

31 (1) A child [who]:

32 (I) WHO is AT LEAST 13 YEARS OLD alleged to be delinquent; or

1 **(II) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
 2 **WHO IS AT LEAST 10 YEARS OLD ALLEGED TO HAVE COMMITTED AN ACT:**

3 **1. THAT, IF COMMITTED BY AN ADULT, WOULD**
 4 **CONSTITUTE:**

5 **A. A CRIME PUNISHABLE BY LIFE IMPRISONMENT;**

6 **B. FIRST DEGREE CHILD ABUSE UNDER § 3-601 OF THE**
 7 **CRIMINAL LAW ARTICLE;**

8 **C. SEXUAL ABUSE OF A MINOR UNDER § 3-602(B) OF THE**
 9 **CRIMINAL LAW ARTICLE;**

10 **D. SECOND DEGREE MURDER UNDER § 2-204 OF THE**
 11 **CRIMINAL LAW ARTICLE;**

12 **E. ARMED CARJACKING UNDER § 3-405 OF THE**
 13 **CRIMINAL LAW ARTICLE;**

14 **F. SECOND DEGREE RAPE UNDER § 3-304 OF THE**
 15 **CRIMINAL LAW ARTICLE;**

16 **G. CONTINUING COURSE OF CONDUCT WITH A CHILD**
 17 **UNDER § 3-315 OF THE CRIMINAL LAW ARTICLE; OR**

18 **H. THIRD DEGREE SEXUAL OFFENSE UNDER § 3-307 OF**
 19 **THE CRIMINAL LAW ARTICLE; OR**

20 **2. ARISING OUT OF THE SAME INCIDENT AS AN ACT**
 21 **LISTED IN ITEM 1 OF THIS ITEM;**

22 **(2) A CHILD WHO IS in need of supervision; [or]**

23 **(3) A CHILD who has received a citation for a violation;**

24 **[(2)] (4) Except as provided in subsection (d)(6) of this section, a peace**
 25 **order proceeding in which the respondent is a child; and**

26 **[(3)] (5) Proceedings arising under the Interstate Compact on Juveniles.**

27 **(b) The court has concurrent jurisdiction over proceedings against an adult for**
 28 **the violation of § 3-8A-30 of this subtitle. However, the court may waive its jurisdiction**
 29 **under this subsection upon its own motion or upon the motion of any party to the**

1 proceeding, if charges against the adult arising from the same incident are pending in the
2 criminal court. Upon motion by either the State's Attorney or the adult charged under §
3 3-8A-30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried
4 in the criminal court according to the usual criminal procedure.

5 (c) The jurisdiction of the court is concurrent with that of the District Court in
6 any criminal case arising under the compulsory public school attendance laws of this State.

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

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

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

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

18 (4) A child at least 16 years old alleged to have committed any of the
19 following crimes, as well as all other charges against the child arising out of the same
20 incident, unless an order removing the proceeding to the court has been filed under §
21 4-202 of the Criminal Procedure Article:

22 (i) Abduction;

23 (ii) Kidnapping;

24 (iii) Second degree murder;

25 (iv) Manslaughter, except involuntary manslaughter;

26 (v) Second degree rape;

27 (vi) Robbery under § 3-403 of the Criminal Law Article;

28 (vii) Third degree sexual offense under § 3-307(a)(1) of the Criminal
29 Law Article;

30 (viii) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of
31 the Public Safety Article;

1 (ix) Using, wearing, carrying, or transporting a firearm during and
 2 in relation to a drug trafficking crime under § 5–621 of the Criminal Law Article;

3 (x) Use of a firearm under § 5–622 of the Criminal Law Article;

4 (xi) Carjacking or armed carjacking under § 3–405 of the Criminal
 5 Law Article;

6 (xii) Assault in the first degree under § 3–202 of the Criminal Law
 7 Article;

8 (xiii) Attempted murder in the second degree under § 2–206 of the
 9 Criminal Law Article;

10 (xiv) Attempted rape in the second degree under § 3–310 of the
 11 Criminal Law Article;

12 (xv) Attempted robbery under § 3–403 of the Criminal Law Article; or

13 (xvi) A violation of § 4–203, § 4–204, § 4–404, or § 4–405 of the
 14 Criminal Law Article;

15 (5) A child who previously has been convicted as an adult of a felony and is
 16 subsequently alleged to have committed an act that would be a felony if committed by an
 17 adult, unless an order removing the proceeding to the court has been filed under § 4–202 of
 18 the Criminal Procedure Article; [or]

19 (6) A peace order proceeding in which the victim, as defined in §
 20 3–8A–01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4–501 of the
 21 Family Law Article; OR

22 **(7) EXCEPT AS PROVIDED IN SUBSECTION (A)(1)(II) OF THIS SECTION,**
 23 **A DELINQUENCY PROCEEDING AGAINST A CHILD WHO IS UNDER THE AGE OF 13**
 24 **YEARS.**

25 (e) If the child is charged with two or more violations of the Maryland Vehicle
 26 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the
 27 same incident and which would result in the child being brought before both the court and
 28 a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the
 29 charges.

30 **(F) A CHILD UNDER THE AGE OF 13 YEARS MAY NOT BE CHARGED WITH A**
 31 **CRIME.**

32 3–8A–10.

1 (c) (4) (i) 1. [If] **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2**
2 **OF THIS SUBPARAGRAPH, IF** a complaint is filed that alleges the commission of an act
3 which would be a felony if committed by an adult or alleges a violation of § 4–203 or §
4 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a
5 petition or proposes an informal adjustment, the intake officer shall immediately:

6 [1.] **A.** Forward the complaint to the State’s Attorney; and

7 [2.] **B.** Forward a copy of the entire intake case file to the
8 State’s Attorney with information as to any and all prior intake involvement with the child.

9 **2. FOR A COMPLAINT THAT ALLEGES THE COMMISSION**
10 **OF AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE INTAKE**
11 **OFFICER IS NOT REQUIRED TO FORWARD THE COMPLAINT AND COPY OF THE INTAKE**
12 **CASE FILE TO THE STATE’S ATTORNEY IF:**

13 **A. THE INTAKE OFFICER PROPOSES THE MATTER FOR**
14 **INFORMAL ADJUSTMENT;**

15 **B. THE ACT DID NOT INVOLVE THE INTENTIONAL**
16 **CAUSING OF, OR ATTEMPT TO CAUSE, THE DEATH OF OR PHYSICAL INJURY TO**
17 **ANOTHER; AND**

18 **C. THE ACT WOULD NOT BE A CRIME OF VIOLENCE, AS**
19 **DEFINED UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE, IF COMMITTED BY AN**
20 **ADULT.**

21 (ii) The State’s Attorney shall make a preliminary review as to
22 whether the court has jurisdiction and whether judicial action is in the best interests of the
23 public or the child. The need for restitution may be considered as one factor in the public
24 interest. After the preliminary review the State’s Attorney shall, within 30 days of the
25 receipt of the complaint by the State’s Attorney, unless the court extends the time:

26 1. File a petition or a peace order request or both;

27 2. Refer the complaint to the Department of Juvenile
28 Services for informal disposition; or

29 3. Dismiss the complaint.

30 (iii) This subsection may not be construed or interpreted to limit the
31 authority of the State’s Attorney to seek a waiver under § 3–8A–06 of this subtitle.

32 (e) (1) **(I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
33 **PARAGRAPH, THE** intake officer [may propose an informal adjustment of the matter if],

1 based on the complaint and the inquiry, [the intake officer concludes] AND AFTER
2 CONCLUDING that the court has jurisdiction [but that], MAY PROPOSE AN INFORMAL
3 ADJUSTMENT OF THE MATTER IF THE INTAKE OFFICER CONCLUDES THAT an
4 informal adjustment, rather than judicial action, is in the best interests of the public and
5 the child.

6 (II) THE INTAKE OFFICER SHALL PROPOSE AN INFORMAL
7 ADJUSTMENT OF THE MATTER IF:

8 1. THE CHILD WHO IS THE SUBJECT OF THE COMPLAINT
9 HAS NOT BEEN PREVIOUSLY:

10 A. ADJUDICATED DELINQUENT; OR

11 B. REFERRED FOR AN INFORMAL ADJUSTMENT;

12 2. A. THE COMPLAINT ALLEGES THAT THE CHILD
13 COMMITTED AN ACT THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT;
14 OR

15 B. IF THE COMPLAINT ALLEGES THAT THE CHILD
16 COMMITTED AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE
17 ACT DID NOT INVOLVE THE INTENTIONAL CAUSING OF, OR ATTEMPT TO CAUSE, THE
18 DEATH OF OR PHYSICAL INJURY TO ANOTHER AND WOULD NOT BE A CRIME OF
19 VIOLENCE, AS DEFINED UNDER § 14-101 OF THE CRIMINAL LAW ARTICLE, IF
20 COMMITTED BY AN ADULT; AND

21 3. THE COMPLAINT DOES NOT ALLEGE AN ACT
22 INVOLVING THE USE OR POSSESSION OF A FIREARM.

23 (2) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
24 PARAGRAPH, THE intake officer shall propose an informal adjustment by informing the
25 victim, the child, and the child's parent or guardian of the nature of the complaint, the
26 objectives of the adjustment process, and the conditions and procedures under which it will
27 be conducted.

28 (II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
29 THE INTAKE OFFICER MAY PROCEED WITH AN INFORMAL ADJUSTMENT WITHOUT
30 INFORMING THE VICTIM AS REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH
31 IF THE INTAKE OFFICER HAS MADE REASONABLE EFFORTS TO CONTACT THE VICTIM
32 FOR THE PURPOSE OF INFORMING THE VICTIM UNDER SUBPARAGRAPH (I) OF THIS
33 PARAGRAPH.

1 (3) The intake officer may not proceed with an informal adjustment unless
2 [the victim,] the child[,] and the child's parent or guardian consent to the informal
3 adjustment procedure.

4 **(N) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT ANY TIME**
5 **BEFORE AN ADJUDICATORY HEARING, THE COURT MAY HOLD THE PROCEEDINGS IN**
6 **ABEYANCE FOR INFORMAL ADJUSTMENT IF CONSENTED TO BY:**

7 **(I) THE STATE'S ATTORNEY;**

8 **(II) THE CHILD WHO IS THE SUBJECT OF THE PETITION AND THE**
9 **CHILD'S COUNSEL; AND**

10 **(III) THE COURT.**

11 **(2) (I) IF THE CHILD SUCCESSFULLY COMPLETES THE INFORMAL**
12 **ADJUSTMENT, THE COURT SHALL DISMISS THE DELINQUENCY PETITION.**

13 **(II) IF THE CHILD DOES NOT SUCCESSFULLY COMPLETE THE**
14 **INFORMAL ADJUSTMENT, THE COURT SHALL RESUME PROCEEDINGS UNDER THIS**
15 **SUBTITLE AGAINST THE CHILD.**

16 3-8A-15.

17 **(b) (1) [If] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
18 **IF a child is taken into custody under this subtitle, the child may be placed in detention or**
19 **community detention prior to a hearing if:**

20 **[(1)] (I) Such action is required to protect the child or others; or**

21 **[(2)] (II) The child is likely to leave the jurisdiction of the court.**

22 **(2) (I) IN THIS PARAGRAPH, "RISK SCORING INSTRUMENT" MEANS**
23 **A TOOL, A METRIC, AN ALGORITHM, OR SOFTWARE THAT:**

24 **1. IS USED TO ASSIST IN DETERMINING THE ELIGIBILITY**
25 **OF A CHILD FOR RELEASE BEFORE A HEARING; AND**

26 **2. HAS BEEN INDEPENDENTLY VALIDATED AT LEAST**
27 **ONCE IN THE PRECEDING 5 YEARS.**

28 **(II) THE COURT OR AN INTAKE OFFICER SHALL CONSIDER THE**
29 **RESULTS OF A RISK SCORING INSTRUMENT BEFORE PLACING A CHILD IN**
30 **DETENTION.**

1 **(3) A CHILD ALLEGED TO HAVE COMMITTED A DELINQUENT ACT MAY**
2 **NOT BE PLACED IN DETENTION BEFORE A HEARING IF THE MOST SERIOUS OFFENSE**
3 **WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, UNLESS:**

4 **(I) THE ACT INVOLVED A HANDGUN AND WOULD BE A**
5 **VIOLATION UNDER THE CRIMINAL LAW ARTICLE OR THE PUBLIC SAFETY ARTICLE**
6 **IF COMMITTED BY AN ADULT; OR**

7 **(II) THE CHILD HAS BEEN ADJUDICATED DELINQUENT AT**
8 **LEAST TWICE IN THE PRECEDING 12 MONTHS.**

9 [(e) Notwithstanding any other provision of this section, detention may not be
10 continued beyond emergency detention for a child under the age of 12 years unless:

11 (1) The child is alleged to have committed an act that, if committed by an
12 adult, would be a crime of violence as defined under § 14–101 of the Criminal Law Article;
13 or

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

15 [(f) **(E)** (1) Detention or community detention may not be continued beyond
16 emergency detention or community detention unless, upon an order of court after a hearing,
17 the court has found that one or more of the circumstances stated in subsection (b) of this
18 section exist.

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

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

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

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

27 1. Shelter care; or

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

31 (ii) If a child who has been released by the Department of Juvenile
32 Services or the court into community detention violates the conditions of community

1 detention, and it is necessary to protect the child or others, an intake officer may authorize
2 the detention of the child.

3 (iii) The Department of Juvenile Services shall promptly notify the
4 court of:

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

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

9 (iv) 1. If a child is returned to detention under subparagraph (ii)
10 of this paragraph, the intake officer who authorized detention shall immediately file a
11 petition to authorize continued detention.

12 2. A hearing on the petition to authorize continued detention
13 shall be held no later than the next court day, unless extended for no more than 5 days by
14 the court on good cause shown.

15 3. Reasonable notice, oral or written, stating the time, place,
16 and purpose of the hearing, shall be given to the child and, if they can be located, the child's
17 parents, guardian, or custodian.

18 ~~[(g)]~~ (F) (1) Shelter care may only be continued beyond emergency shelter
19 care if the court has found that:

20 (i) Continuation of the child in the child's home is contrary to the
21 welfare of the child; and

22 (ii) 1. Removal of the child from the child's home is necessary
23 due to an alleged emergency situation and in order to provide for the safety of the child; or

24 2. Reasonable but unsuccessful efforts were made to prevent
25 or eliminate the need for removal of the child from the home.

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

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

31 (3) The court shall make a determination as to whether reasonable efforts
32 are being made to make it possible to return the child to the child's home or whether the
33 absence of such efforts is reasonable.

1 **[(h)] (G)** A child alleged to be delinquent may not be detained in a jail or other
2 facility for the detention of adults.

3 **[(i)] (H)** (1) A child alleged to be in need of supervision may not be placed in:

4 (i) Detention or community detention;

5 (ii) A State mental health facility; or

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

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

12 (3) The Secretary of Human Services and the Secretary of Juvenile
13 Services together, when appropriate, with the Secretary of Health shall jointly adopt
14 regulations to ensure that any child placed in shelter care pursuant to a petition filed under
15 subsection (d) of this section be provided appropriate services, including:

16 (i) Health care services;

17 (ii) Counseling services;

18 (iii) Education services;

19 (iv) Social work services; and

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

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

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

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

27 **[(j)] (I)** The intake officer or the official who authorized detention, community
28 detention, or shelter care under this subtitle shall immediately give written notice of the
29 authorization for detention, community detention, or shelter care to the child's parent,
30 guardian, or custodian and to the court. The notice shall be accompanied by a statement of
31 the reasons for taking the child into custody and placing him in detention, community

1 detention, or shelter care. This notice may be combined with the notice required under
2 subsection (d) of this section.

3 **[(k)] (J)** (1) If a child is alleged to have committed a delinquent act, the court
4 or a juvenile intake officer shall consider including, as a condition of releasing the child
5 pending an adjudicatory or disposition hearing, reasonable protections for the safety of the
6 alleged victim.

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

11 **[(l)] (K)** If a child remains in a facility used for detention [for the specific act for
12 which the child has been adjudicated delinquent for more than 25 days after the court has
13 made a disposition on a petition under § 3-8A-19 of this subtitle], the Department of
14 Juvenile Services shall:

15 (1) [On the first available court date after the 25th day that the child
16 remains in a facility used for detention,] **WITHIN 14 DAYS AFTER THE CHILD'S INITIAL**
17 **DETENTION**, appear at a hearing before the court with the child to explain the reasons for
18 continued detention; and

19 (2) Every **[25] 14** days thereafter, appear at another hearing before the
20 court with the child to explain the reasons for continued detention.

21 **(L) WITHIN 10 DAYS AFTER A DECISION TO DETAIN A CHILD UNDER THIS**
22 **SUBTITLE IN A FACILITY USED FOR DETENTION, THE DEPARTMENT OF JUVENILE**
23 **SERVICES SHALL SUBMIT A PLAN TO THE COURT FOR RELEASING THE CHILD INTO**
24 **THE COMMUNITY.**

25 3-8A-19.

26 (d) (1) In making a disposition on a petition under this subtitle, the court may:

27 (i) **[Place] SUBJECT TO § 3-8A-19.6 OF THIS SUBTITLE, PLACE**
28 the child on probation or under supervision in his own home or in the custody or under the
29 guardianship of a relative or other fit person, upon terms the court deems appropriate,
30 including community detention;

31 (3) (i) [Except as provided in subparagraph (ii) or (iii) of this
32 paragraph, a] **A** child may not be committed to the Department of Juvenile Services for
33 out-of-home placement if the most serious offense is:

34 1. Possession of marijuana under § 5-601(c)(2)(ii) of the
35 Criminal Law Article;

1 (iii) A child whose most serious offense is an offense listed in
2 subparagraph (i) of this paragraph may be committed to the Department of Juvenile
3 Services for out-of-home placement if the court makes a written finding, including the
4 specific facts supporting the finding, that an out-of-home placement is necessary for the
5 welfare of the child or in the interest of public safety.]

6 [(iv)] (II) This paragraph may not be construed to prohibit the court
7 from committing the child to another appropriate agency.

8 **3-8A-19.6.**

9 (A) THE COURT MAY NOT PLACE A CHILD ON PROBATION FOR A TERM
10 EXCEEDING THAT PROVIDED IN THIS SECTION.

11 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
12 THE MOST SERIOUS OFFENSE COMMITTED BY A CHILD WOULD BE A MISDEMEANOR
13 IF COMMITTED BY AN ADULT, THE COURT MAY PLACE THE CHILD ON PROBATION
14 FOR A PERIOD NOT EXCEEDING 6 MONTHS.

15 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COURT
16 MAY, AFTER A HEARING, EXTEND THE PROBATION BY PERIODS NOT EXCEEDING 3
17 MONTHS IF THE COURT FINDS THAT:

18 (I) THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND

19 (II) THE PURPOSE OF EXTENDING THE PROBATION IS TO
20 ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE
21 PROGRAM OR SERVICE.

22 (3) THE TOTAL PERIOD OF THE PROBATION, INCLUDING EXTENSIONS
23 OF THE PROBATION, MAY NOT EXCEED 1 YEAR.

24 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION
25 AND SUBSECTION (D) OF THIS SECTION, IF THE MOST SERIOUS OFFENSE COMMITTED
26 BY A CHILD WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE COURT MAY
27 PLACE THE CHILD ON PROBATION FOR A PERIOD NOT EXCEEDING 1 YEAR.

28 (2) (I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
29 COURT MAY, AFTER A HEARING, EXTEND THE PROBATION BY PERIODS NOT
30 EXCEEDING 3 MONTHS IF THE COURT FINDS THAT:

31 1. THERE IS GOOD CAUSE TO EXTEND THE PROBATION;

32 AND

1 **2. THE PURPOSE OF EXTENDING THE PROBATION IS TO**
2 **ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE**
3 **PROGRAM OR SERVICE.**

4 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
5 **SUBSECTION, IF THE PROBATION IS EXTENDED UNDER THIS PARAGRAPH, THE**
6 **TOTAL PERIOD OF THE PROBATION MAY NOT EXCEED 2 YEARS.**

7 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE**
8 **COURT MAY EXTEND THE PERIOD OF THE PROBATION FOR A PERIOD OF TIME**
9 **GREATER THAN THE PERIOD DESCRIBED IN PARAGRAPH (2)(II) OF THIS**
10 **SUBSECTION IF, AFTER A HEARING, THE COURT FINDS BY CLEAR AND CONVINCING**
11 **EVIDENCE THAT:**

12 **1. THERE IS GOOD CAUSE TO EXTEND THE PROBATION;**
13 **AND**

14 **2. EXTENDING THE PROBATION IS IN THE BEST**
15 **INTEREST OF THE CHILD.**

16 **(II) IF THE PROBATION IS EXTENDED UNDER THIS PARAGRAPH,**
17 **THE TOTAL PERIOD OF PROBATION, INCLUDING EXTENSIONS UNDER PARAGRAPH**
18 **(2) OF THIS SUBSECTION, MAY NOT EXCEED 3 YEARS.**

19 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF**
20 **THE MOST SERIOUS OFFENSE COMMITTED BY A CHILD WOULD BE A CRIME THAT, IF**
21 **COMMITTED BY AN ADULT, WOULD BE PUNISHABLE BY LIFE IMPRISONMENT, THE**
22 **COURT MAY PLACE THE CHILD ON PROBATION FOR A PERIOD NOT EXCEEDING 2**
23 **YEARS.**

24 **(2) THE COURT MAY, AFTER A HEARING, EXTEND THE PROBATION BY**
25 **PERIODS NOT EXCEEDING 3 MONTHS IF THE COURT FINDS THAT:**

26 **(I) THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND**

27 **(II) THE PURPOSE OF EXTENDING THE PROBATION IS TO**
28 **ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE**
29 **PROGRAM OR SERVICE.**

30 **3-8A-19.7.**

31 **(A) IN THIS SECTION, "TECHNICAL VIOLATION" MEANS A VIOLATION OF**
32 **PROBATION THAT DOES NOT INVOLVE:**

1 **(1) AN ARREST OR A SUMMONS ISSUED BY A COMMISSIONER ON A**
 2 **STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER;**

3 **(2) A VIOLATION OF A CRIMINAL PROHIBITION, OR AN ACT THAT**
 4 **WOULD BE A VIOLATION OF A CRIMINAL PROHIBITION IF COMMITTED BY AN ADULT,**
 5 **OTHER THAN A MINOR TRAFFIC OFFENSE;**

6 **(3) A VIOLATION OF A NO-CONTACT OR STAY-AWAY ORDER; OR**

7 **(4) ABSCONDING.**

8 **(B) A CHILD MAY NOT BE PLACED IN A FACILITY USED FOR DETENTION FOR**
 9 **A TECHNICAL VIOLATION.**

10 3-8A-27.

11 (a) (2) This subsection does not prohibit:

12 (iv) A law enforcement agency of the State or of a political subdivision
 13 of the State, when necessary and for the sole purposes of facilitating apprehension of a child
 14 and ensuring public safety, from releasing to the public photographs and identifying
 15 information of a child who:

16 1. Has escaped from:

17 A. A detention center for juveniles;

18 B. A secure residential facility for juveniles; or

19 C. A correctional unit as defined in § 2-401 of the
 20 Correctional Services Article;

21 2. Is a missing child as defined in § 9-401 of the Family Law
 22 Article; or

23 3. The court does not have jurisdiction over pursuant to [§
 24 3-8A-03(d)(1), (4), or (5)] **§ 3-8A-03(E)(1), (4), OR (5)** of this subtitle and who is subject
 25 to:

26 A. Arrest; or

27 B. An arrest warrant issued by a criminal court.

28 **Article – Criminal Procedure**

29 4-202.

1 (b) Except as provided in subsection (c) of this section, a court exercising criminal
2 jurisdiction in a case involving a child may transfer the case to the juvenile court before
3 trial or before a plea is entered under Maryland Rule 4-242 if:

4 (1) the accused child was at least 14 but not 18 years of age when the
5 alleged crime was committed;

6 (2) the alleged crime is excluded from the jurisdiction of the juvenile court
7 under [§ 3-8A-03(d)(1), (4), or (5)] **§ 3-8A-03(E)(1), (4), OR (5)** of the Courts Article; and

8 (3) the court determines by a preponderance of the evidence that a transfer
9 of its jurisdiction is in the interest of the child or society.

10 (c) The court may not transfer a case to the juvenile court under subsection (b) of
11 this section if:

12 (1) the child was convicted in an unrelated case excluded from the
13 jurisdiction of the juvenile court under [§ 3-8A-03(d)(1) or (4)] **§ 3-8A-03(E)(1) OR (4)** of
14 the Courts Article; or

15 (2) the alleged crime is murder in the first degree and the accused child
16 was 16 or 17 years of age when the alleged crime was committed.

17 (i) (1) The provisions of § 3-8A-27 of the Courts Article relating to
18 confidentiality of records apply to all police records and court records concerning the child
19 excluded from the jurisdiction of the juvenile court under [§ 3-8A-03(d)(1), (4), or (5)] **§**
20 **3-8A-03(E)(1), (4), OR (5)** of the Courts Article from the time of the child's arrest until:

21 (i) the time for filing of a motion to transfer to juvenile court under
22 the Maryland Rules has expired and no such motion has been filed; or

23 (ii) a motion to transfer to juvenile court has been denied.

24 4-202.2.

25 (a) At sentencing, a court exercising criminal jurisdiction in a case involving a
26 child shall determine whether to transfer jurisdiction to the juvenile court if:

27 (1) as a result of trial or a plea entered under Maryland Rule 4-242, all
28 charges that excluded jurisdiction from the juvenile court under [§ 3-8A-03(d)(1) or (4)] **§**
29 **3-8A-03(E)(1) OR (4)** of the Courts Article do not result in a finding of guilty; and

30 (2) (i) pretrial transfer was prohibited under § 4-202(c)(2) of this
31 subtitle; or

1 (ii) the court did not transfer jurisdiction after a hearing under §
2 4–202(b) of this subtitle.

3 10–215.

4 (a) The following events are reportable events under this subtitle that must be
5 reported to the Central Repository in accordance with § 10–214 of this subtitle:

6 (20) an adjudication of a child as delinquent:

7 (i) if the child is at least 14 years old, for an act described in [§
8 3–8A–03(d)(1)] **§ 3–8A–03(E)(1)** of the Courts Article; or

9 (ii) if the child is at least 16 years old, for an act described in [§
10 3–8A–03(d)(4) or (5)] **§ 3–8A–03(E)(4) OR (5)** of the Courts Article;

11 10–216.

12 (d) (1) This subsection only applies to an adjudication of delinquency of a child:

13 (i) for an act described in [§ 3–8A–03(d)(1)] **§ 3–8A–03(E)(1)** of the
14 Courts Article if the child is at least 14 years old; or

15 (ii) for an act described in [§ 3–8A–03(d)(4) or (5)] **§ 3–8A–03(E)(4)**
16 **OR (5)** of the Courts Article if the child is at least 16 years old.

17 **Article – Education**

18 7–303.

19 (a) (6) “Reportable offense” means:

20 (ii) Any of the offenses enumerated in [§ 3–8A–03(d)(4)] **§**
21 **3–8A–03(E)(4)** of the Courts Article;

22 **Article – Public Safety**

23 **3–530.**

24 (A) **THE GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND**
25 **VICTIM SERVICES SHALL REQUEST AND ANALYZE DATA RELATING TO JUVENILES**
26 **WHO ARE CHARGED, CONVICTED, AND SENTENCED AS ADULTS IN THE STATE,**
27 **INCLUDING DATA FROM:**

28 (1) **LAW ENFORCEMENT AGENCIES IN THE STATE;**

1 (III) MENTAL HEALTH SERVICES FOR CHILDREN; AND

2 (IV) PREVENTION AND INTERVENTION SERVICES FOR
3 JUVENILES;

4 (2) EVALUATE THE COST-EFFECTIVENESS OF PRACTICES
5 RESEARCHED BY THE COMMISSION;

6 (3) IDENTIFY MEANS OF EVALUATING THE EFFECTIVENESS OF
7 PRACTICES RESEARCHED BY THE COMMISSION; AND

8 (4) GIVING SPECIAL ATTENTION TO ORGANIZATIONS LOCATED IN OR
9 SERVING HISTORICALLY UNDERSERVED COMMUNITIES, IDENTIFY STRATEGIES TO
10 ENABLE COMMUNITY-BASED ORGANIZATIONS THAT PROVIDE SERVICES FOR
11 JUVENILES TO EVALUATE AND VALIDATE SERVICES AND PROGRAMMING PROVIDED
12 BY THOSE ORGANIZATIONS.

13 (G) ON OR BEFORE DECEMBER 31, 2023, AND ON OR BEFORE DECEMBER
14 31 EACH YEAR THEREAFTER, THE COMMISSION SHALL REPORT ITS FINDINGS TO
15 THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, THE
16 GENERAL ASSEMBLY.

17 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 15, 2023,
18 the Department of Juvenile Services shall report to the General Assembly, in accordance
19 with § 2-1257 of the State Government Article, on:

20 (1) plans to publish an annual report by the Department of Juvenile
21 Services, in consultation with the Maryland Department of Health, on the length of stay
22 for juveniles in secure facilities while undergoing competency evaluations and receiving
23 services;

24 (2) plans for the inclusion of information and data relating to use of a risk
25 assessment tool in the Department of Juvenile Services' Data Resource Guide;

26 (3) the use of community detention for juveniles in the care and custody of
27 the Department of Juvenile Services;

28 (4) the Department of Juvenile Services' development of forms for
29 community detention that do not include information relating to house arrests;

30 (5) the effect of a requirement that the Department of Juvenile Services
31 provide a robust continuum of community-based alternatives to detention in all
32 jurisdictions of the State and recommendations for establishing the requirement;

1 (6) access to mental health services for all juveniles served by the
2 Department of Juvenile Services;

3 (7) the feasibility of and any plans for providing quality, evidence-based
4 programming for juveniles detained in secure juvenile facilities, including educational
5 programming, structured weekend activities, and activities involving family members of
6 detained juveniles;

7 (8) the use of community detention, including electronic monitoring, for
8 juveniles placed on probation;

9 (9) plans to increase the number of shelter beds available in juvenile
10 facilities, particularly beds for girls;

11 (10) plans to track and report data on the number of days juveniles ordered
12 to shelter care placements remain in secure juvenile facilities;

13 (11) minimum training standards for staff at juvenile facilities;

14 (12) surveillance systems at juvenile facilities, including whether all
15 juvenile facilities are equipped with functioning surveillance cameras capable of monitoring
16 all areas of juvenile facilities;

17 (13) minimum standards for facilitating family engagement for juveniles at
18 juvenile facilities, including standards for facilitating daily contact between juveniles and
19 their family members;

20 (14) standards for attorneys to access their clients within all juvenile
21 facilities in the State;

22 (15) plans to adopt cognitive behavioral therapy training and restorative
23 justice training for staff at all juvenile facilities in the State; and

24 (16) plans to transition from the current slate of secure juvenile facilities to
25 ensure access to both nonresidential and residential facilities that use culturally
26 competent, evidence-based programming in all jurisdictions of the State.

27 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31,
28 2023, the Governor's Office of Crime Prevention, Youth, and Victim Services shall:

29 (1) (i) develop a model policy for diversion of juveniles from the juvenile
30 justice system and criminal justice system;

31 (ii) identify funding opportunities to support diversion programs for
32 juveniles in the State, including local programs; and

1 (iii) collect and evaluate data related to the implementation and
2 effectiveness of diversion programs for juveniles in the State; and

3 (2) report its findings to the General Assembly, in accordance with §
4 2–1257 of the State Government Article.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
6 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.