

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 2

(Senator Carter, *et al.*)

Judicial Proceedings

Judiciary

Juvenile Law - Child in Need of Supervision - Mandatory Petition (NyKayla Strawder Memorial Act)

This bill establishes that if a law enforcement officer alleges the commission of an act by a child younger than age 13 that results in the death of a victim, the law enforcement officer must forward the complaint to the Department of Juvenile Services (DJS) for appropriate action. If a DJS intake officer receives such a complaint, the intake officer must file a petition alleging that the child is either delinquent or in need of supervision.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finance and operations.

Local Effect: The bill is not expected to materially affect local finances and operations.

Small Business Effect: None.

Analysis

Current Law:

Jurisdiction of the Juvenile Court

In general, the juvenile court has jurisdiction over children who are alleged to be delinquent, in need of supervision, or who have received a citation for specified violations. The juvenile court also has jurisdiction over peace order proceedings in which the respondent is a child.

However, except under limited circumstances involving a child who is at least age 10 and alleged to have committed a “crime of violence,” as defined in § 14-101 of the Criminal Law Article, the juvenile court does not have jurisdiction over a child younger than age 13 for purposes of a delinquency proceeding and such a child may not be charged with a crime. In addition, the juvenile court does not have jurisdiction over (1) a child at least age 14 alleged to have committed an act which, if committed by an adult, would be a crime punishable by life imprisonment; (2) a child at least age 16 alleged to have violated specified traffic or boating laws; (3) a child at least age 16 alleged to have committed specified crimes (violent crimes, firearms crimes, etc.); or (4) a child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult. These cases are tried in adult criminal court.

A “delinquent child” is a child who has committed an act which would be a crime if committed by an adult and who requires guidance, treatment, or rehabilitation. “Children in need of supervision,” are children who require guidance, treatment, or rehabilitation and (1) are required by law to attend school but are habitually truant; (2) are habitually disobedient, ungovernable, and beyond the control of the custodian; (3) act in a manner that may injure or endanger themselves or others; or (4) have committed an offense applicable only to children, such as a curfew violation.

Jurisdictional Inquiry

Intake occurs when a complaint is filed by a police officer or other person or agency having knowledge of facts that may cause a child to be subject to the jurisdiction of the juvenile court. Within 25 days after a complaint is filed, a DJS intake officer is required to make an inquiry to determine whether the juvenile court has jurisdiction and whether judicial action is in the best interests of the public or the child. The intake officer may make any of the following decisions: (1) deny authorization to file a petition or a peace order request or both in the juvenile court; (2) propose an informal adjustment of the matter; or (3) authorize the filing of a petition or a peace order request or both in the juvenile court. Petitions alleging delinquency are prepared and filed by the State’s Attorney. A petition alleging delinquency must be filed within 30 days of a referral from an intake officer, unless that time is extended by the court for good cause shown. Petitions alleging that a child is in need of supervision are filed by the intake officer.

However, if a complaint is filed that alleges the commission of certain handgun or firearms offenses or acts that would be felonies if committed by an adult, the intake officer must immediately forward the complaint and case file to the State’s Attorney for additional review if the intake officer denies authorization to file a petition or proposes an informal adjustment. The intake officer is not required to forward the complaint and copy of the file to the State’s Attorney if the complaint alleges the commission of an act that would be a

felony if committed by an adult and (1) the intake officer proposes the matter for informal adjustment; (2) the act did not involve the intentional causing of, or attempt to cause, the death of or physical injury to another; and (3) the act would not be a crime of violence if committed by an adult.

If the complaint is forwarded to the State's Attorney, the State's Attorney must make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. After the preliminary review, and within 30 days of the State's Attorney's receipt of the complaint (unless the court extends the time), the State's Attorney must file a petition or a peace order request or both; refer the complaint to the DJS for informal disposition; or dismiss the complaint.

Denial of Authorization to File a Petition or Peace Order Request

The intake officer may deny authorization to file a petition or a peace order request in the juvenile court if the matter is not within the jurisdiction of the juvenile court or otherwise lacks legal sufficiency. If the intake officer determines that the juvenile court does have jurisdiction over the matter, but that further action by DJS or the court is not appropriate, the intake officer may deny authorization to file a petition or peace order request and resolve the case at intake.

The victim, the arresting police officer, or the person or agency that filed the complaint or caused it to be filed may appeal a denial of authorization to file a petition for delinquency to the State's Attorney. If authorization to file a peace order request or a petition alleging that a child in need of supervision is denied, the person or agency that filed the complaint or caused it to be filed may submit the denial for review by the DJS area director for the area in which the complaint was filed.

Proposal of Informal Adjustment

If the juvenile court has jurisdiction, the intake officer may propose an informal adjustment of the matter if the officer concludes that an informal process, rather than judicial intervention, is in the best interests of the public and the child. To proceed with an informal adjustment, consent must be received from the child and the child's parents or guardian. In addition, the intake officer must make reasonable efforts to contact the victim for the purpose of informing the victim of the proposed process. Informal adjustment may include (1) referrals to other agencies; (2) completion of community service; (3) individual or family counseling; (4) substance abuse treatment; (5) restitution; and (6) other types of nonjudicial intervention.

An informal adjustment may not exceed 90 days, unless extended by the court or as necessary for the child to participate in a substance-related disorder treatment or a mental health program. If, at any time before the completion of the agreed-upon informal adjustment, the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer must authorize the filing of a petition or a peace order request in the juvenile court. In addition to the pre-court informal adjustment process described above, after a petition is filed, the juvenile court, at any time before an adjudicatory hearing, may hold the proceedings in abeyance for informal adjustment if consented to by the State's Attorney, the child who is the subject of the petition and the child's counsel, and the court. If the child successfully completes the informal adjustment, the court is required to dismiss the petition. If the child does not successfully complete the informal adjustment, the juvenile court must resume proceedings against the child. If the intake officer determines that the juvenile court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child, the intake officer may authorize the filing of a petition or a peace order request or both in the juvenile court.

Authorization to File a Petition or Peace Order Request

If the intake officer determines that the juvenile court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child, the intake officer may authorize the filing of a petition or a peace order request or both in the juvenile court.

Additional Comments: According to DJS's *FY 2022 Data Resource Guide*, of the 1,081 complaints in fiscal 2022 involving children younger than age 13, 73.0% were resolved at intake, 13.2% were referred for informal adjustment, and 13.8% resulted in a formalized petition. Child in Need of Supervision cases represented 2.3% of the 10,782 total complaints received by DJS during fiscal 2022. In fiscal 2023 (after extensive statutory changes to juvenile jurisdiction), there were 299 complaints involving children younger than age 13, 69.9% were resolved at intake, 7.7% were referred for informal adjustment, and 22.4% resulted in a formalized petition. Child in Need of Supervision cases represented 4.1% of the 12,388 complaints received by DJS during fiscal 2023.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 15 of 2023.

Designated Cross File: None.

Information Source(s): Baltimore, Carroll, Harford, Prince George’s, Queen Anne’s, and St. Mary’s counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Juvenile Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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