

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 52

(Senator Folden, *et al.*)

Judicial Proceedings

Juvenile Justice Restoration Act of 2024

This bill grants the juvenile court exclusive original jurisdiction over a child who is at least 10 years old who is alleged to have committed an act that, if committed by an adult, would constitute (1) a crime involving the use or possession of a “firearm,” as defined in § 5-101 of the Public Safety Article or (2) any crime, if the child has been arrested on two prior occasions. The bill also authorizes a law enforcement officer to conduct a custodial interrogation of the child, without the child first consulting with an attorney, if the child’s parent, guardian, or custodian of the child consents to the interrogation.

Fiscal Summary

State Effect: The bill can be implemented with existing budgeted resources. Revenues are not affected.

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

Small Business Effect: None.

Analysis

Current Law:

Juvenile Court – Jurisdiction

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. 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. The juvenile court also has jurisdiction over peace order proceedings in which the respondent is a child.

Custodial Interrogation of Minors

If a law enforcement officer takes a child into custody, the officer must immediately notify, or cause to be notified, the child’s parents, guardian, or custodian in a manner reasonably calculated to give actual notice of the action. The notice must include the child’s location, provide the reason for the child being taken into custody, and instruct the parent, guardian, or custodian on how to make immediate in-person contact with the child.

The custodial interrogation of a child by a law enforcement officer is prohibited until the child has consulted with an attorney, and the law enforcement officer has made an effort reasonably calculated to give actual notice to the parent, guardian, or custodian that the child will be interrogated. A child’s attorney consultation must be confidential and conducted in a manner consistent with the Maryland Rules of Professional Conduct and may be conducted in person or by telephone or video conference. To the extent practicable and consistent with the Maryland Rules of Professional Conduct, an attorney providing consultation must communicate and coordinate with the parent, guardian, or custodian of the child in custody. The requirement of consultation with an attorney may not be waived and applies whether the child is proceeded against as a child or is charged as an adult.

An exception to the notice and consultation requirements specified above authorizes a law enforcement officer to conduct an otherwise lawful custodial interrogation of a child if (1) the law enforcement officer reasonably believes that the information sought is necessary to protect against a threat to public safety and (2) the questions posed to the child by the law enforcement officer are limited to those questions reasonably necessary to obtain the information necessary to protect against the threat of public safety. Unless impossible, impracticable, or unsafe, an interrogation conducted under such circumstances must be recorded. A child being interrogated under such circumstances must be informed if the interrogation is being recorded.

There is a rebuttable presumption that a statement made by a child during a custodial interrogation is inadmissible in a delinquency proceeding or a criminal prosecution against that child if a law enforcement officer willfully failed to comply with statutorily mandated custodial interrogation requirements. The State may overcome the presumption by showing, by clear and convincing evidence, that the statement was made knowingly, intelligently, and voluntarily. These provisions may not be construed to render a statement by that child inadmissible in a proceeding against another individual.

State Fiscal Effect: The Office of the Public Defender (OPD) advises that, assuming the number of cases involving children who have been arrested on two prior occasions is low, the bill's proposed provisions would result in 5-10 additional cases per year, which along with litigating statements elicited without the child's consultation with an attorney, requires two attorneys, one-fourth of a full-time social worker, and one-third of a secretary, at a cost of \$246,816 in fiscal 2025 and increasing to \$322,532 by fiscal 2029. This estimate includes \$10,000 in expert psychologist fees. While the Department of Legislative Services recognizes the bill increases OPD workloads, the projected workload associated with the bill does not warrant this magnitude of resources and is most likely absorbable with existing budgeted resources.

The Judiciary advises that it can implement the bill with existing resources. The Department of Juvenile Services does not anticipate a fiscal or operational impact from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 319 (Delegate Kipke, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Prince George's County; Town of Bel Air; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of General Services; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Amanda L. Douglas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510