

SB0323/133421/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 323
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “**Smith,**” insert “**Brooks,**”; and in the same line, after “**Sydnor,**” insert “**Watson,**”.

AMENDMENT NO. 2

On page 1, in line 2, after “**Jurisdiction**” insert “**, Detention, and Confinement**”; in line 6, after “acts;” insert “requiring an intake officer to authorize detention of a certain child; altering and establishing certain provisions relating to the detention, confinement, and transportation of certain children;”; in the same line, strike “jurisdiction of the”; in line 10, strike “and 3–8A–27(a)(2)(iii)” and substitute “, 3–8A–15(b), and 3–8A–16”; in line 15, strike “4–202(b), (c), and (i), 4–202.2(a), 10–215(a)(20), and 10–216(d)” and substitute “4–202(h)”; and strike in their entirety lines 18 through 22, inclusive, and substitute:

“BY repealing and reenacting, without amendments,

Article - Human Services

Section 9-201

Annotated Code of Maryland

(2019 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, with amendments,

Article - Human Services

Section 9-224

Annotated Code of Maryland

(2019 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, without amendments,

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Article - State Government
Section 9-3601
Annotated Code of Maryland
(2021 Replacement Volume and 2025 Supplement)

BY adding to

Article - State Government
Section 9-3602(c)
Annotated Code of Maryland
(2021 Replacement Volume and 2025 Supplement)".

AMENDMENT NO. 3

On page 3, in lines 12, 16, 19, 22, 26, and 27, in each instance, strike the bracket; in line 19, strike "**(2)**"; in line 22, strike "**(3)**"; in line 28, strike "**(I)**" and substitute "**(III)**"; in line 29, strike "**(II)**" and substitute "**(IV)**"; in line 30, strike "**(III)**" and substitute "**(V)**"; and in line 31, strike "**(IV)**" and substitute "**(VI)**".

On page 4, in line 1, strike "[vi]" and substitute "**(VII)**"; in line 2, strike "(vii)" and substitute "**(VIII)**"; in line 4, strike "(viii)" and substitute "**(IX)**"; in the same line, strike "§ 5-133, § 5-134, § 5-138, or"; in line 6, strike "(ix)" and substitute "**(IX)**"; in line 9, strike "**(V)**" and substitute "**(X)**"; in line 13, strike "**(VI)**" and substitute "**(XI)**"; in line 15, strike "**(VII)**" and substitute "**(XII)**"; in line 17, strike the brackets; in the same line, strike "(xv)" and substitute "**(XIII)**"; in line 19, strike "**(VIII)**" and substitute "**(XIV)**"; in the same line, strike the fifth bracket; and in the same line, strike the sixth bracket.

AMENDMENT NO. 4

On page 5, after line 4, insert:

"3-8A-15.

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(b) (1) Subject to paragraphs (2) [and], (3), AND (4) of this subsection, if a child is taken into custody under this subtitle, the child may be placed in detention or community detention prior to a hearing if:

(i) Such action is required to protect the child or others; or

(ii) The child is likely to leave the jurisdiction of the court.

(2) (i) In this paragraph, “risk scoring instrument” means a tool, a metric, an algorithm, or software that:

1. Is used to assist in determining the eligibility of a child for release before a hearing; and

2. Has been independently validated at least once in the preceding 5 years.

(ii) The court or an intake officer shall consider the results of a risk scoring instrument before placing a child in detention.

(3) (i) Subject to subparagraph (ii) of this paragraph, a child alleged to have committed a delinquent act may not be placed in detention before a hearing if the most serious offense would be a misdemeanor if committed by an adult, unless:

1. The act would be a violation of § 4–203 or § 4–204 of the Criminal Law Article or a violation of § 5–133, § 5–134, § 5–138, § 5–142, § 5–203, or § 5–703 of the Public Safety Article if committed by an adult;

2. The child has been adjudicated delinquent at least twice in the preceding 2 years; or

(Over)

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3. A. The child was under the supervision of the Department of Juvenile Services when the alleged act occurred; and

B. The alleged act, if committed by an adult, would be subject to a penalty of imprisonment of more than 2 years and would not constitute assault in the second degree under § 3-203 of the Criminal Law Article.

(ii) Except as provided in subsection (e) of this section, a child under the age of 13 may not be placed in detention if:

1. The act would be a violation of § 4-203 or § 4-204 of the Criminal Law Article or a violation of § 5-133, § 5-134, § 5-138, § 5-142, § 5-203, or § 5-703 of the Public Safety Article; and

2. The child has not previously been adjudicated delinquent for an act that would be a violation § 4-203 or § 4-204 of the Criminal Law Article or a violation of § 5-133, § 5-134, § 5-138, § 5-142, § 5-203, or § 5-703 of the Public Safety Article.

(4) AN INTAKE OFFICER SHALL AUTHORIZE DETENTION FOR A CHILD IF THE CHILD IS:

(I) AT LEAST 16 YEARS OLD; AND

(II) ACCUSED OF AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD BE:

1. A VIOLATION OF § 4-203 OF THE CRIMINAL LAW ARTICLE; OR

2. A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

AMENDMENT NO. 5

On page 8, after line 22, insert:

“Article – Human Services

9-201.

There is a Department of Juvenile Services established as a principal department of State government.

9-224.

(A) On or before October 1, 2025, and each October 1 thereafter, the Department shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in accordance with § 2-1257 of the State Government Article, on:

(1) efforts by the Department to promote predelinquent programs, including youth service bureaus;

(2) efforts by the Department to collaborate with and provide technical assistance to local governments regarding the establishment, use, and funding of youth service bureaus;

(3) an assessment of the programs and activities conducted by youth service bureaus; and

(4) any other efforts to prevent youth offenses.

(Over)

(B) ON OR BEFORE OCTOBER 1, 2027, AND EACH OCTOBER 1 THEREAFTER, THE DEPARTMENT, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME PREVENTION AND POLICY AND THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL REPORT TO THE COMMISSION ON JUVENILE JUSTICE AND EMERGING AND BEST PRACTICES AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE AVERAGE LENGTH OF STAY OF YOUTH AWAITING COMMITTED PLACEMENT IN A JUVENILE DETENTION FACILITY;

(2) (I) THE TOTAL NUMBER OF CASES IN WHICH THE JUVENILE COURT IS PETITIONED TO WAIVE ITS JURISDICTION UNDER § 3-8A-06 OF THE COURTS ARTICLE;

(II) THE TOTAL NUMBER OF CASES IN WHICH THE JUVENILE COURT WAIVES ITS JURISDICTION UNDER § 3-8A-06 OF THE COURTS ARTICLE;
AND

(III) THE TOTAL NUMBER OF CASES IN WHICH THE JUVENILE COURT DECLINES TO WAIVE ITS JURISDICTION UNDER § 3-8A-06 OF THE COURTS ARTICLE;

(3) (I) THE TOTAL NUMBER OF CASES IN WHICH A COURT IS PETITIONED TO TRANSFER THE CASE TO JUVENILE COURT UNDER § 4-202 OF THE CRIMINAL PROCEDURE ARTICLE;

(II) THE TOTAL NUMBER OF CASES IN WHICH A COURT TRANSFERS THE CASE TO JUVENILE COURT UNDER § 4-202 OF THE CRIMINAL PROCEDURE ARTICLE; AND

(III) THE TOTAL NUMBER OF CASES IN WHICH A COURT DECLINES TO TRANSFER THE CASE TO JUVENILE COURT UNDER § 4-202 OF THE CRIMINAL PROCEDURE ARTICLE; AND

(4) THE AVERAGE LENGTH OF TIME A YOUTH SPENDS IN DETENTION, COMMUNITY DETENTION, OR SHELTER CARE AWAITING A DECISION UNDER § 3-8A-06 OF THE COURTS ARTICLE.

Article – State Government

9-3601.

In this subtitle, “Office” means the Governor’s Office of Crime Prevention and Policy.

9-3602.

(C) ON OR BEFORE OCTOBER 1, 2027, AND EACH OCTOBER 1 THEREAFTER, THE OFFICE SHALL REPORT TO THE COMMISSION ON JUVENILE JUSTICE REFORM AND EMERGING AND BEST PRACTICES AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE TOTAL NUMBER OF YOUTH HOUSED IN FACILITIES WITH ADULT OFFENDERS ON A MONTHLY BASIS;

(2) THE AVERAGE LENGTH OF STAY OF YOUTH HOUSED IN FACILITIES WITH ADULT OFFENDERS;

(Over)

(3) THE TOTAL NUMBER OF YOUTH CHARGED AS ADULTS UNDER § 3-8A-03(D)(3) OF THE COURTS ARTICLE AND THE OFFENSES WITH WHICH THOSE YOUTH ARE CHARGED;

(4) THE TOTAL NUMBER OF YOUTH HELD IN RESTRICTIVE HOUSING IN FACILITIES WITH ADULT OFFENDERS; AND

(5) THE TOTAL NUMBER OF VIOLATIONS OF THE PROVISIONS OF TITLE 34 OF THE UNITED STATES CODE PROHIBITING YOUTH FROM HAVING SIGHT AND SOUND CONTACT WITH ADULT OFFENDERS.”;

and after line 26, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2027, the Commission on Juvenile Justice Reform and Emerging and Best Practices shall, in accordance with § 2-1257 of the State Government Article, report to the General Assembly on:

(1) the implementation of this Act;

(2) the total number of behavioral incidents involving juveniles in the custody of the Department of Juvenile Services following the enactment of this Act; and

(3) the ability of the Department of Juvenile Services to maintain staffing levels adequate to meet any increase in the number of juveniles in the custody of the Department resulting from this Act.”.

AMENDMENT NO. 6

On page 8, before line 27, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

3-8A-16.

[(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver him to the court upon request or transfer him to the facility designated by the intake officer or the court, unless the court has waived its jurisdiction with respect to the person and he is being proceeded against as an adult.

(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer or adult detention facility in accordance with the law governing the detention of persons charged with crime.]

(A) A CHILD, INCLUDING ONE SUBJECT TO ADULT CRIMINAL COURT JURISDICTION, WHO HAS BEEN ARRESTED, HAS BEEN CONVICTED, OR IS AWAITING TRIAL ON CRIMINAL CHARGES MAY NOT BE DETAINED OR CONFINED IN ANY INSTITUTION IN WHICH THE CHILD HAS CONTACT WITH OR COMES WITHIN SIGHT OR SOUND OF AN INCARCERATED ADULT.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CHILD WHO HAS BEEN ARRESTED, HAS BEEN CONVICTED, OR IS AWAITING TRIAL FOR AN OFFENSE UNDER ADULT CRIMINAL COURT JURISDICTION MAY NOT BE HELD IN CUSTODY IN AN ADULT CORRECTIONAL FACILITY.

(Over)

(C) A CHILD MAY BE TEMPORARILY HELD FOR PROCESSING IN AN ADULT JAIL OR A CORRECTIONAL OR DETENTION FACILITY THAT DOES NOT HAVE A SECURE JUVENILE DETENTION AREA IF THE CHILD IS:

(1) SEPARATED BY SIGHT AND SOUND FROM INCARCERATED ADULTS; AND

(2) HELD FOR A PERIOD NOT EXCEEDING 6 HOURS, INCLUDING TIME IN THE FACILITY AND IN TRANSPORT TO THE NEAREST JUVENILE FACILITY.

[(c)] (D) A child may not be transported together with adults who have been charged with or convicted of a crime [unless the court has waived its jurisdiction and the child is being proceeded against as an adult].

Article – Criminal Procedure

4–202.

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

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

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

(iii) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others.

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

SECTION 5. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect October 1, 2029.”;

in line 27, strike “3.” and substitute “6.”; and in the same line, after “That” insert “, except as provided in Section 5 of this Act.”.

AMENDMENT NO. 7

On pages 5 through 8, strike in their entirety the lines beginning with line 5 on page 5 through line 22 on page 8, inclusive.