

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 389
Judiciary

(Delegate Bartlett)

**Juveniles - Detention and Confinement - Limitations on Juvenile Contact With
Incarcerated Adults**

This bill limits the circumstances under which a minor may be held, detained, or confined in an adult jail or correctional facility. The bill prohibits a child, including one subject to adult criminal court jurisdiction, who has been arrested, convicted, or awaiting trial on criminal charges from being detained or confined in any institution in which the child has contact with or comes within sight or sound of an incarcerated adult. Absent a temporary hold for processing, a child who has been arrested, convicted, or is awaiting trial for an offense under adult criminal court jurisdiction is prohibited from being held in custody in an adult correctional facility. However, a child may be temporarily held for processing in an adult jail or correctional or detention facility that does not have a secure juvenile detention area if the child is separated by sight and sound from incarcerated adults and is held for a period not exceeding six hours, as specified. **The bill takes effect October 1, 2028.**

Fiscal Summary

State Effect: No effect on total capital spending; however, funding for other capital projects is reduced or delayed due to construction costs caused by the bill. Beginning as early as FY 2029, general fund expenditures for the Department of Juvenile Services (DJS) increase significantly to operate new facilities and address an expanded DJS population. Implementation of the bill may help the State avoid the loss and restricted use of federal grant funding as early as FY 2029, as discussed below. The Judiciary can implement the bill using existing budgeted resources. Revenues are not affected.

Local Effect: Under one set of assumptions, local expenditures decrease beginning in FY 2029, as discussed below. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under current law, in general, a child alleged to be delinquent, and subject to the juvenile court's jurisdiction, may not be detained in a jail or other facility for the detention of adults. However, statute prescribes that a child is eligible for – or automatically subject to – the adult criminal court's jurisdiction if the child is alleged to have committed one of specified enumerated offenses and certain conditions apply.

Transfer of a Child to Adult Facilities

In general, statute allows a child subject to the adult criminal court's jurisdiction to be held in an adult detention facility.

Under current law, the official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime must inform the court or the intake officer immediately when a person, who is or appears to be younger than age 18, is received at the facility and must 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 and he is being proceeded against as an adult. When a case is transferred to another court for criminal prosecution, the child must promptly be transferred to the appropriate officer or adult detention facility in accordance with statute. The bill repeals these provisions.

Transportation with Adults

Under current law, 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. Under the bill, a child may not be transported together with adults who have been charged or convicted of a crime, regardless of the jurisdiction over the child.

Pending Placements in Juvenile Facilities

Under current law, pending the determination to transfer jurisdiction of a child, the court must order the child to be held in a secure juvenile facility unless (1) the child is released on bail, recognizance, or other conditions of pretrial release; (2) there is not available capacity in a secure juvenile facility, as determined by DJS; or (3) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others. If the court makes a finding that detention in a secure juvenile facility would pose a risk of harm to the child or others, the court must state the reasons for the finding on the record. The bill repeals provisions (2) and (3).

Federal Juvenile Justice and Delinquency Prevention Act

The Juvenile Justice and Delinquency Prevention Act (JJDPA) requires states to comply with four core requirements: (1) deinstitutionalization of status offenders; (2) sight and sound separation of juveniles from adults in institutions; (3) removal of juveniles from adult jails and lockups; and (4) addressing racial and ethnic disparities. The 2018 reauthorization of the JJDPA required states to come into compliance by December 2021, or risk losing federal funding.

State Fiscal Effect:

Assumption

Neither the bill nor existing statute define “adult correctional facility.” The Youth Detention Center (YDC) in Baltimore City houses youth younger than age 18 who are charged as adults in Baltimore City and are awaiting trial or serving the beginning of their sentence for a conviction as an adult. While YDC’s entire population is younger than age 18, by function and statute, YDC is operated by the Division of Pretrial Detention and Services in the Department of Public Safety and Correctional Services (DPSCS), not DJS. This estimate assumes that YDC can continue to be operated by DPSCS and used for its current purpose under the bill.

Governor’s Office of Crime Prevention and Policy

The 2018 reauthorization of JJDPA created several new requirements that states must comply with in order to receive related federal funds. Previously, JJDPA only mandated the removal of minors from adult jails in delinquency cases. Minors prosecuted as adults were exempt from this requirement and could be housed in adult facilities. The reauthorization addresses the removal of all youth younger than age 18 who are pending trial or other court processes from facilities that house adult inmates. States were given until December 2021 to come into compliance with JJDPA or risk losing federal funding.

The Governor’s Office of Crime Prevention and Policy (GOCPP) administers the Title II Juvenile Justice Delinquency Prevention Formula Grant, which, subject to the federal grant program and federal law, requires the removal of children from adult jails and lockups. GOCPP advises that current State practice is noncompliant, and implementation of the bill is necessary for compliance with federal formula grant funds standards. **Exhibit 1** details federal fiscal 2023 and 2024 compliance standards and the State’s noncompliance monitoring rates.

Exhibit 1
JJDPA Compliance Standards and Maryland's Noncompliance Monitoring Rates
Federal Fiscal 2023 and 2024

Requirement	Federal Standard (per 100,000 juveniles)		Maryland's Noncompliance Monitoring Rate (per 100,000 juveniles)	
	<u>2023</u>	<u>2024</u>	<u>2023</u>	<u>2024</u>
Deinstitutionalization of status offenders and nonoffenders	3.08	3.23	0.00	0.15
Removal of juveniles from adult jails and lockups	n/a	14.68	93.26	119.59
Sight and sound separation	0.66	0.16	0.00	0.00
Removal of juveniles, alleged delinquent, from adult jails and lockups	8.81	15.13	0.66	2.39

n/a: not applicable

JJDPA: Juvenile Justice Detention Prevention Act

Source: The Governor's Office of Crime Prevention and Policy

If a state is noncompliant with JJDPA's core requirements, the federal government reduces the state's JJDPA grant funding by 20% per noncompliant requirement, and the State must reallocate 50% of its remaining award to compliance efforts. GOCPP notes that most violations of the "sight and sound" separation requirement occur as a result of youth placed in local adult jails and detention centers and recur every 30 days that a youth remains housed in an adult facility.

According to GOCPP, Maryland was awarded \$866,821 in 2024. The federal government has yet to reduce the State's grant funding but plans to increase compliance enforcement efforts this year. Assuming continued steady funding, no changes to federal compliance standards and State performance, and a 20% funding cut absent the bill, the State avoids loss of approximately \$173,000 in federal grant funding and restricted/reallocated use of approximately \$347,000 in grant funding per year beginning as early as fiscal 2029 under the bill.

Department of Juvenile Services

DJS advises that implementation of the bill may require *at least* one new 24-bed facility. DJS advises that while significant, the cost of the facility cannot be reliably estimated at this time. However, *for illustrative purposes only*, in response to previous related legislation, DJS estimated the need for constructing two new 24-bed facilities, at a cost of \$45 million each and annual operating expenditures of \$12.0 to \$15.0 million. DJS notes that it does not have readily available data to determine the amount of cases affected at the time the bill goes into effect, nor does it have data for the amount of juvenile cases currently under adult court jurisdiction.

Although the bill has no effect on total capital spending, which is established annually by the Governor and the General Assembly through the capital budget process, funding for other capital projects is reduced or delayed. As noted above, to the extent facilities are constructed, general fund operational expenditures for DJS increase significantly. While the bill has an effective date of October 1, 2028, expenditures associated with new facilities are unlikely to be incurred within the five-year projection of this estimate.

Local Expenditures: Assuming that local jurisdictions do not have to alter facilities or significantly alter operations to comply with the bill, beginning in fiscal 2029, local expenditures decrease due to a reduced juvenile jail population.

Beginning in fiscal 2029, the bill shifts children from local jails to DJS facilities and imposes additional requirements on the conditions under which children are kept in local jails during the six hour temporary hold period permitted under the bill. As noted above, data is not readily available on the number of children held in local jails. According to GOCCP, most of the State's sight and sound violations occur at local jails. Also, according to a workgroup of the Commission on Juvenile Justice Reform and Emerging and Best Practices, "... counties have consistently reported that detaining youth in adult jails strains budgets, staffing, and infrastructure. Most facilities were not built to meet federal 'sight and sound' separation standards, and retrofitting would cost millions. These limitations increase the likelihood of compliance violations while placing youth at risk of harm."

The Maryland Association of Counties (MACo) advises that the bill relieves local jails of operational and fiscal burdens. According to MACo, local jurisdictions have employed extensive measures to comply with the sight and sound federal mandate for a limited juvenile population, altering facilities to achieve compliance has been impossible in some instances, and coordination efforts to avoid placements of juveniles in restrictive confinement have been complicated.

Anne Arundel County advises that the bill may increase workload and overtime costs. Subsequent transportation requirements of a juvenile from a local detention facility to a

DJS facility may require the arresting officer or detention staff to remain on site of where the juvenile was initially processed until transportation can be completed. Anne Arundel County also advises additional personnel may be required on site to the extent a juvenile undergoing processing is an escape risk or combative.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however similar provisions have been considered. For example, see HB 1107 and SB 827 of 2025.

Designated Cross File: SB 296 (Senator Love, *et al.*) - Judicial Proceedings.

Information Source(s): Anne Arundel, Cecil, Frederick, Montgomery, and Somerset counties; Maryland Association of Counties; Governor’s Office of Crime Prevention and Policy; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Department of Public Safety and Correctional Services; Commission on Juvenile Justice and Emerging Best Practices; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2026
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