

SENATE BILL 875

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CF HB 1028

By: **Senator Jackson**

Introduced and read first time: February 9, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Dispositions – Placement Guidance**

3 FOR the purpose of modifying the circumstances under which the juvenile court is
4 prohibited from committing a child to the Department of Juvenile Services for
5 out-of-home placement; and generally relating to juvenile law.

6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 3–8A–19(d)
9 Annotated Code of Maryland
10 (2020 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 3–8A–19.

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

16 (i) Place the child on probation or under supervision in his own
17 home or in the custody or under the guardianship of a relative or other fit person, upon
18 terms the court deems appropriate, including community detention;

19 (ii) Subject to the provisions of paragraphs (2) and (3) of this
20 subsection, commit the child to the custody or under the guardianship of the Department
21 of Juvenile Services, the Maryland Department of Health, or a public or licensed private
22 agency on terms that the court considers appropriate to meet the priorities set forth in §
23 3–8A–02 of this subtitle, including designation of the type of facility where the child is to
24 be accommodated, until custody or guardianship is terminated with approval of the court

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



or as required under § 3–8A–24 of this subtitle; or

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family.

(2) In addition to the provisions of paragraph (1) of this subsection, in making a disposition on a petition, the court may adopt a treatment service plan, as defined in § 3–8A–20.1 of this subtitle.

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

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

2. Possession or purchase of a noncontrolled substance under § 5–618 of the Criminal Law Article;

3. Disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article;

4. Malicious destruction of property under § 6–301 of the Criminal Law Article;

5. An offense involving inhalants under § 5–708 of the Criminal Law Article;

6. An offense involving prostitution under § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;

7. Theft under § 7–104(g)(2) or (3) of the Criminal Law Article; or

8. Trespass under § 6–402(b)(1) or § 6–403(c)(1) of the Criminal Law Article.] **THE CHILD IS ADJUDICATED DELINQUENT FOR AN OFFENSE THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, UNLESS:**

1. THE OFFENSE IS:

A. A SECOND OR SUBSEQUENT OFFENSE INVOLVING A FIREARM; OR

B. A VIOLATION OF COMMUNITY SUPERVISION THAT CONSTITUTES A TECHNICAL VIOLATION, AS DEFINED IN § 6–101 OF THE CORRECTIONAL SERVICES ARTICLE; OR

1 [(ii) 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:

4 1. The child previously has been adjudicated delinquent for
5 three or more offenses arising from separate and independent circumstances;]

6 2. The child waives the prohibition described in
7 [subparagraph (i) of this paragraph] **THIS SUBPARAGRAPH** and the court accepts the
8 waiver as knowing, intelligent, and voluntary[; or

9 3. The court makes a written finding in accordance with
10 subparagraph (iii) of this paragraph.

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

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

18 (4) A child committed under paragraph (1)(ii) of this subsection may not be
19 accommodated in a facility that has reached budgeted capacity if a bed is available in
20 another comparable facility in the State, unless the placement to the facility that has
21 reached budgeted capacity has been recommended by the Department of Juvenile Services.

22 (5) The court shall consider any oral address made in accordance with §
23 11-403 of the Criminal Procedure Article or any victim impact statement, as described in
24 § 11-402 of the Criminal Procedure Article, in determining an appropriate disposition on a
25 petition.

26 (6) (i) If the court finds that a child enrolled in a public elementary or
27 secondary school is delinquent or in need of supervision and commits the child to the
28 custody or under the guardianship of the Department of Juvenile Services, the court may
29 notify the county superintendent, the supervisor of pupil personnel, or any other official
30 designated by the county superintendent of the fact that the child has been found to be
31 delinquent or in need of supervision and has been committed to the custody or under the
32 guardianship of the Department of Juvenile Services.

33 (ii) If the court rescinds the commitment order for a child enrolled in
34 a public elementary or secondary school, the court may notify the county superintendent,
35 the supervisor of pupil personnel, or any other official designated by the county
36 superintendent of the fact that the child is no longer committed to the custody of the

1 Department of Juvenile Services.

2 (iii) The notice authorized under subparagraphs (i) and (ii) of this
3 paragraph may not include any order or pleading related to the delinquency or child in need
4 of supervision case.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2021.