

HOUSE BILL 1029

E3

1lr2221

By: **Delegate Crutchfield**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court – Jurisdiction**

3 FOR the purpose of altering the jurisdiction of the juvenile court by repealing provisions
4 specifying that the juvenile court does not have jurisdiction over a child at least a
5 certain age alleged to have committed certain acts; making conforming changes; and
6 generally relating to the jurisdiction of the juvenile court.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–8A–03(d)
10 Annotated Code of Maryland
11 (2020 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 4–202(b) and (c), 4–202.2(a) and (c), 10–215(a), and 10–216(d)
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2020 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Criminal Procedure
19 Section 4–202.2(b)
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Education
24 Section 7–303(a)(6)
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, without amendments,
Article – Education
Section 7–303(a)(7), (8), and (9) and (b)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Courts and Judicial Proceedings

3–8A–03.

(d) The court does not have jurisdiction over:

(1) [A child at least 14 years old alleged to have done an act that, if committed by an adult, would be a crime punishable by life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article;

(2)] A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;

[(3)] (2) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration;

[(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article:

(i) Abduction;

(ii) Kidnapping;

(iii) Second degree murder;

(iv) Manslaughter, except involuntary manslaughter;

(v) Second degree rape;

(vi) Robbery under § 3–403 of the Criminal Law Article;

(vii) Third degree sexual offense under § 3–307(a)(1) of the Criminal Law Article;

(viii) A crime in violation of § 5–133, § 5–134, § 5–138, or § 5–203 of the Public Safety Article;

(ix) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5–621 of the Criminal Law Article;

(x) Use of a firearm under § 5–622 of the Criminal Law Article;

(xi) Carjacking or armed carjacking under § 3–405 of the Criminal Law Article;

(xii) Assault in the first degree under § 3–202 of the Criminal Law Article;

(xiii) Attempted murder in the second degree under § 2–206 of the Criminal Law Article;

(xiv) Attempted rape in the second degree under § 3–310 of the Criminal Law Article;

(xv) Attempted robbery under § 3–403 of the Criminal Law Article; or

(xvi) A violation of § 4–203, § 4–204, § 4–404, or § 4–405 of the Criminal Law Article;]

[(5)] (3) 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, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article; or

[(6)] (4) A peace order proceeding in which the victim, as defined in § 3–8A–01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4–501 of the Family Law Article.

Article – Criminal Procedure

4–202.

(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4–242 if:

(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;

(2) the alleged crime is excluded from the jurisdiction of the juvenile court

1 under § ~~[3–8A–03(d)(1), (4), or (5)]~~ **3–8A–03(D)(3)** of the Courts Article; and

2 (3) the court determines by a preponderance of the evidence that a transfer
3 of its jurisdiction is in the interest of the child or society.

4 (c) The court may not transfer a case to the juvenile court under subsection (b) of
5 this section if[:

6 (1) the child was convicted in an unrelated case excluded from the
7 jurisdiction of the juvenile court under § 3–8A–03(d)(1) or (4) of the Courts Article; or

8 (2)] the alleged crime is murder in the first degree and the accused child
9 was 16 or 17 years of age when the alleged crime was committed.

10 4–202.2.

11 (a) At sentencing, a court exercising criminal jurisdiction in a case involving a
12 child shall determine whether to transfer jurisdiction to the juvenile court if:

13 [(1) as a result of trial or a plea entered under Maryland Rule 4–242, all
14 charges that excluded jurisdiction from the juvenile court under § 3–8A–03(d)(1) or (4) of
15 the Courts Article do not result in a finding of guilty; and

16 (2) (i)] **(1)** pretrial transfer was prohibited under § ~~[4–202(c)(2)]~~
17 **4–202(C)** of this subtitle; or

18 [(ii)] **(2)** the court did not transfer jurisdiction after a hearing
19 under § 4–202(b) of this subtitle.

20 (b) In determining whether to transfer jurisdiction under subsection (a) of this
21 section, the court shall consider:

22 (1) the age of the child;

23 (2) the mental and physical condition of the child;

24 (3) the amenability of the child to treatment in an institution, facility, or
25 program available to delinquent children;

26 (4) the nature of the child's acts as proven in the trial or admitted to in a
27 plea entered under Maryland Rule 4–242; and

28 (5) public safety.

29 (c) The court may not consider transferring jurisdiction to the juvenile court
30 under this section if:

(1) under the terms of a plea agreement entered under Maryland Rule 4–243, the child agrees that jurisdiction is not to be transferred; or

(2) pretrial transfer was prohibited under § [4–202(c)(1)] **4–202(C)** of this subtitle.

10–215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

(1) the issuance or withdrawal of an arrest warrant;

(2) an arrest;

(3) the filing of a charging document;

(4) a release pending trial or an appeal;

(5) a commitment to an institution of pretrial detention;

(6) the dismissal of an indictment or criminal information;

(7) a nolle prosequi;

(8) the marking of a charge “stet” on the docket;

(9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;

(10) the imposition of a sentence;

(11) a commitment to a State correctional facility or local correctional facility;

(12) a commitment to the Maryland Department of Health under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;

(13) a release from detention or confinement;

(14) a conditional release, revocation of conditional release, or discharge of a person committed to the Maryland Department of Health under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;

(15) an escape from confinement or commitment;

(16) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

(17) an entry of an appeal to an appellate court;

(18) a judgment of an appellate court;

(19) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

(20) an adjudication of a child as delinquent[:],

[(i) if the child is at least 14 years old, for an act described in § 3-8A-03(d)(1) of the Courts Article; or

(ii)] if the child is at least 16 years old, for an act described in § [3-8A-03(d) (4) or (5)] **3-8A-03(D)(3)** of the Courts Article;

(21) the issuance or withdrawal of a writ of attachment by a juvenile court;

(22) the initial registration of a person under Title 11, Subtitle 7 of this article;

(23) the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article;

(24) a finding that a defendant has been convicted of or received a probation before judgment disposition for a domestically related crime under § 6-233 of this article; and

(25) any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.

10-216.

(d) (1) This subsection only applies to an adjudication of delinquency of a child[:]

(i) for an act described in § 3-8A-03(d)(1) of the Courts Article if the child is at least 14 years old; or

(ii)] for an act described in § [3-8A-03(d)(4) or (5)] **3-8A-03(D)(3)** of the Courts Article if the child is at least 16 years old.

(2) If a child has not been previously fingerprinted as a result of arrest for the delinquent act, the court that held the disposition hearing of the child adjudicated delinquent shall order the child to be fingerprinted by the appropriate and available law enforcement unit.

(3) If the child cannot be fingerprinted at the time of the disposition hearing held under paragraph (2) of this subsection, the court shall order the child to report to a designated law enforcement unit to be fingerprinted within 3 days after making a disposition on an adjudication of delinquency.

Article – Education

7–303.

(a) (6) “Reportable offense” means:

(i) A crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) [Any of the offenses enumerated in § 3–8A–03(d)(4) of the Courts Article;

(iii)] A violation of § 4–101, § 4–102, § 4–203, or § 4–204 of the Criminal Law Article;

[(iv)] (III) A violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, § 5–607, § 5–608, § 5–608.1, § 5–609, § 5–612, § 5–613, § 5–614, § 5–617, § 5–618, § 5–627, or § 5–628 of the Criminal Law Article;

[(v)] (IV) A violation of § 4–503, § 9–504, or § 9–505 of the Criminal Law Article;

[(vi)] (V) A violation of § 6–102, § 6–103, § 6–104, or § 6–105 of the Criminal Law Article;

[(vii)] (VI) A violation of § 9–802 or § 9–803 of the Criminal Law Article;

[(viii)] (VII) A violation of § 3–203 of the Criminal Law Article;

[(ix)] (VIII) A violation of § 6–301 of the Criminal Law Article;

[(x)] (IX) A violation of § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

[(xi)] (X) A violation of § 7–105 of the Criminal Law Article;

1 [(xii)] **(XI)** A violation of § 6–202 of the Criminal Law Article; or

2 [(xiii)] **(XII)** A violation of § 10–606 of the Criminal Law Article.

3 (7) “School principal” means the principal of the public or nonpublic school
4 in which a student is enrolled, or a designee of the principal, who is an administrator.

5 (8) (i) “School security officer” includes a school principal, another
6 school administrator, a law enforcement officer, or other individual employed by a local
7 school system or a local government who is designated by the county superintendent or a
8 school principal to help maintain the security and safety of a school.

9 (ii) “School security officer” does not include a teacher.

10 (9) “Student” means an individual enrolled in a public school system or
11 nonpublic school in the State who is 5 years of age or older and under 22 years of age.

12 (b) If a student is arrested for a reportable offense or an offense that is related to
13 the student’s membership in a criminal gang, the law enforcement agency making the
14 arrest:

15 (1) Shall notify the following individuals of the arrest and the charges
16 within 24 hours of the arrest or as soon as practicable:

17 (i) The local superintendent;

18 (ii) The school principal; and

19 (iii) For a school that has a school security officer, the school security
20 officer; and

21 (2) May notify the State’s Attorney of the arrest and charges.

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