

SENATE BILL 52

E3

(PRE-FILED)

4lr1346
CF 4lr1271

By: **Senators Folden, Bailey, Carozza, Corderman, Gallion, Hershey, Jennings, Mautz, McKay, Ready, Salling, Simonaire, and West**

Requested: October 31, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Justice Restoration Act of 2024**

3 FOR the purpose of altering the jurisdiction of the juvenile court to establish that the
4 juvenile court has exclusive original jurisdiction over a child who is at least a certain
5 age alleged to have committed a certain offense; altering a certain provision of law
6 authorizing a law enforcement officer to conduct an otherwise lawful custodial
7 interrogation of a child under certain circumstances; and generally relating to
8 juvenile law.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–8A–03 and 3–8A–14.2
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2023 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 3–8A–03.

18 (a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has
19 exclusive original jurisdiction over:

20 (1) A child:

21 (i) Who is at least 13 years old alleged to be delinquent; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(ii) Except as provided in subsection (d) of this section, who is at least 10 years old alleged to have committed an act:

1. That, if committed by an adult, would constitute [a]:

A. A crime of violence, as defined in § 14–101 of the Criminal Law Article; [or]

B. A CRIME INVOLVING THE USE OR POSSESSION OF A FIREARM, AS DEFINED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE; OR

C. ANY CRIME, IF THE CHILD HAS BEEN ARRESTED ON TWO PRIOR OCCASIONS; OR

2. Arising out of the same incident as an act listed in item 1 of this item;

(2) A child who is in need of supervision;

(3) A child who has received a citation for a violation;

(4) Except as provided in subsection (d)(6) of this section, a peace order proceeding in which the respondent is a child; and

(5) Proceedings arising under the Interstate Compact on Juveniles.

(b) The court has concurrent jurisdiction over proceedings against an adult for the violation of § 3–8A–30 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by either the State’s Attorney or the adult charged under § 3–8A–30 of this subtitle, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure.

(c) (1) The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this State.

(2) The jurisdiction of the court is concurrent with that of a federal court sitting in the State over proceedings involving a violation of federal law committed by a child on a military installation of the U.S. Department of Defense if:

(i) The federal court waives exclusive jurisdiction; and

(ii) The violation of federal law is also a crime under State law.

(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) 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

1 Article;

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

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

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

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

9 (5) A child who previously has been convicted as an adult of a felony and is
10 subsequently alleged to have committed an act that would be a felony if committed by an
11 adult, unless an order removing the proceeding to the court has been filed under § 4–202 of
12 the Criminal Procedure Article;

13 (6) A peace order proceeding in which the victim, as defined in §
14 3–8A–01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4–501 of the
15 Family Law Article; or

16 (7) Except as provided in subsection (a)(1)(ii) of this section, a delinquency
17 proceeding against a child who is under the age of 13 years.

18 (e) If the child is charged with two or more violations of the Maryland Vehicle
19 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the
20 same incident and which would result in the child being brought before both the court and
21 a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the
22 charges.

23 (f) A child under the age of 13 years may not be charged with a crime.

24 3–8A–14.2.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) “Custodial interrogation” retains its judicially determined meaning.

27 (3) (i) “Law enforcement officer” has the meaning stated in § 1–101 of
28 the Public Safety Article.

29 (ii) “Law enforcement officer” includes a school resource officer, as
30 defined in § 7–1501 of the Education Article.

31 (b) A law enforcement officer may not conduct a custodial interrogation of a child
32 until:

1 (1) The child has consulted with an attorney who is:

2 (i) Retained by the parent, guardian, or custodian of the child; or

3 (ii) Provided by the Office of the Public Defender; and

4 (2) The law enforcement officer has made an effort reasonably calculated
5 to give actual notice to the parent, guardian, or custodian of the child that the child will be
6 interrogated.

7 (c) A consultation with an attorney under this section:

8 (1) Shall be:

9 (i) Conducted in a manner consistent with the Maryland Rules of
10 Professional Conduct; and

11 (ii) Confidential; and

12 (2) May be:

13 (i) In person; or

14 (ii) By telephone or video conference.

15 (d) To the extent practicable and consistent with the Maryland Rules of
16 Professional Conduct, an attorney providing consultation under this section shall
17 communicate and coordinate with the parent, guardian, or custodian of the child in custody.

18 (e) The requirement of consultation with an attorney under this section:

19 (1) May not be waived; and

20 (2) Applies regardless of whether the child is proceeded against as a child
21 under this subtitle or is charged as an adult.

22 (f) (1) A law enforcement agency conducting an interrogation under this
23 section shall maintain a record of the notification or attempted notification of a parent,
24 guardian, or custodian under this section, including:

25 (i) A signed statement by a duly authorized law enforcement officer
26 employed by the agency that an attempt to notify a parent, guardian, or custodian was
27 made;

28 (ii) The name of the person sought to be notified; and

(iii) The method of attempted notification.

(2) (i) A law enforcement agency conducting an interrogation under this section shall maintain a record of the name of the attorney contacted and the county or counties in which the attorney provided the consultation.

(ii) An attorney contacted to provide legal consultation to a child under this subtitle shall provide to a law enforcement officer the information required for the record required to be maintained under subparagraph (i) of this paragraph.

(g) (1) Notwithstanding the requirements of this section, a law enforcement officer may conduct an otherwise lawful custodial interrogation of a child if:

(i) **1.** The law enforcement officer reasonably believes that the information sought is necessary to protect against a threat to public safety; and

[(ii)] 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 to public safety; **OR**

**(II) THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN
CONSENTS TO THE CUSTODIAL INTERROGATION OF THE CHILD WITHOUT THE
CHILD'S CONSULTATION WITH AN ATTORNEY.**

(2) (i) Unless it is impossible, impracticable, or unsafe to do so, an interrogation conducted under paragraph (1) of this subsection shall be recorded.

(ii) In a jurisdiction that has adopted the use of body-worn digital recording devices by law enforcement officers, the interrogation of a child may be recorded using a body-worn digital recording device in a manner that is consistent with departmental policies regarding the use of body-worn digital recording devices.

(iii) In a jurisdiction that has not adopted the use of body-worn digital recording devices, the interrogation of a child may be recorded using other video and audio recording technology in a manner that is consistent with any policies of the law enforcement agency regarding the use of video and audio recording technology.

(iv) A child being interrogated under this subsection shall be informed if the interrogation is being recorded.

(h) (1) 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 the requirements of this section.

(2) The State may overcome the presumption by showing, by clear and

1 convincing evidence, that the statement was made knowingly, intelligently, and
2 voluntarily.

3 (3) This subsection may not be construed to render a statement by that
4 child inadmissible in a proceeding against another individual.

5 (i) The Office of the Public Defender shall:

6 (1) Develop and implement policies to provide guidance and instruction to
7 attorneys to meet the requirements of this section; and

8 (2) On or before October 1, 2022, publish on its website, or provide to law
9 enforcement on request, information on attorneys available to act as counsel to a child in
10 accordance with this section.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2024.