

HOUSE BILL 1338

E3, D4, E1

1lr2915

By: **Delegate Dumais**

Introduced and read first time: February 11, 2021

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court – Jurisdiction – Adults**

3 FOR the purpose of repealing the jurisdiction of the juvenile court over an adult alleged to
4 have willfully contributed to, encouraged, caused, or tended to cause any act,
5 omission, or condition that results in a certain violation or renders a child a
6 delinquent child or a child in need of supervision; repealing the jurisdiction of the
7 juvenile court over an adult alleged to have willfully contributed to, encouraged,
8 caused, or tended to cause any act, omission, or condition that renders a child in need
9 of assistance; making conforming changes; and generally relating to the jurisdiction
10 of the juvenile court.

11 BY transferring

12 Article – Courts and Judicial Proceedings
13 Section 3–828 and 3–8A–30, respectively
14 Annotated Code of Maryland
15 (2020 Replacement Volume)

16 to be

17 Article – Criminal Law
18 Section 3–610 and 3–611, respectively
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2020 Supplement)

21 BY renumbering

22 Article – Courts and Judicial Proceedings
23 Section 3–829, 3–830, and 3–8A–32 through 3–8A–34, respectively
24 to be Section 3–828, 3–829, and 3–8A–30 through 3–8A–32, respectively
25 Annotated Code of Maryland
26 (2020 Replacement Volume)

27 BY repealing and reenacting, without amendments,

28 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 3–801(a) and (d) through (g) and 3–8A–01(a), (c) through (e), (l), and (m)
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–801(u), 3–8A–01(v) and (y), 3–8A–03, and 3–8A–08
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing
Article – Courts and Judicial Proceedings
Section 3–803(c)
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–610 and 3–611
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 3–828 and 3–8A–30, respectively, of Article – Courts and Judicial
Proceedings of the Annotated Code of Maryland be transferred to be Section(s) 3–610 and
3–611, respectively, of Article – Criminal Law of the Annotated Code of Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3–829, 3–830, and
3–8A–32 through 3–8A–34, respectively, of Article – Courts and Judicial Proceedings of the
Annotated Code of Maryland be renumbered to be Section(s) 3–828, 3–829, and 3–8A–30
through 3–8A–32, respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – Courts and Judicial Proceedings

3–801.

(a) In this subtitle the following words have the meanings indicated.

(d) “Adult” means an individual who is at least 18 years old.

(e) “Child” means an individual under the age of 18 years.

(f) “Child in need of assistance” means a child who requires court intervention

1 because:

2 (1) The child has been abused, has been neglected, has a developmental
3 disability, or has a mental disorder; and

4 (2) The child's parents, guardian, or custodian are unable or unwilling to
5 give proper care and attention to the child and the child's needs.

6 (g) "CINA" means a child in need of assistance.

7 (u) (1) "Party" means:

8 (i) A child who is the subject of a petition;

9 (ii) The child's parent, guardian, or custodian; **OR**

10 (iii) The petitioner[; or

11 (iv) An adult who is charged under § 3–828 of this subtitle].

12 (2) "Party" does not include a foster parent.

13 3–803.

14 [(c) (1) The court has concurrent jurisdiction over proceedings against an adult
15 for a violation of § 3–828 of this subtitle.

16 (2) (i) The court may waive its jurisdiction under this subsection on its
17 own motion or on the motion of any party to the proceeding, if charges against the adult
18 arising from the same incident are pending in the criminal court.

19 (ii) On motion by the State's Attorney or the adult charged under §
20 3–828 of this subtitle, the court shall waive its jurisdiction and the adult shall be tried in
21 the criminal court according to the usual criminal procedure.

22 (3) The age of the child at the time a petition is filed under § 3–828 of this
23 subtitle controls the determination of jurisdiction under this subsection.]

24 3–8A–01.

25 (a) In this subtitle the following words have the meanings indicated, unless the
26 context of their use indicates otherwise.

27 (c) "Adult" means an individual who is at least 18 years old.

28 (d) "Child" means an individual under the age of 18 years.

(e) “Child in need of supervision” is a child who requires guidance, treatment, or rehabilitation and:

(1) Is required by law to attend school and is habitually truant;

(2) Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him;

(3) Deports himself so as to injure or endanger himself or others; or

(4) Has committed an offense applicable only to children.

(l) “Delinquent act” means an act which would be a crime if committed by an adult.

(m) “Delinquent child” is a child who has committed a delinquent act and requires guidance, treatment, or rehabilitation.

(v) “Party” includes a child who is the subject of a petition or a peace order request, the child’s parent, guardian, or custodian, **AND** the petitioner [and an adult who is charged under § 3–8A–30 of this subtitle].

(y) “Petition” means the pleading filed with the court under § 3–8A–13 of this subtitle alleging that a child is a delinquent child or a child in need of supervision [or that an adult violated § 3–8A–30 of this subtitle].

3–8A–03.

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

(1) A child who is alleged to be delinquent or in need of supervision or who has received a citation for a violation;

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

(3) 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

1 in the criminal court according to the usual criminal procedure.

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

4 [(d)] (C) The court does not have jurisdiction over:

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

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

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

15 (4) A child at least 16 years old alleged to have committed any of the
16 following crimes, as well as all other charges against the child arising out of the same
17 incident, unless an order removing the proceeding to the court has been filed under §
18 4–202 of the Criminal Procedure Article:

19 (i) Abduction;

20 (ii) Kidnapping;

21 (iii) Second degree murder;

22 (iv) Manslaughter, except involuntary manslaughter;

23 (v) Second degree rape;

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

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

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

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

31 (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) 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) 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.

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

3–8A–08.

(a) If a petition alleges that a child is in need of supervision, the petition shall be filed in the county where the child resides.

(b) [If delinquency or violation of § 3–8A–30 of this subtitle is alleged or if a citation is issued, the petition, if any, or the citation shall be filed in the county where the alleged act occurred subject to transfer as provided in § 3–8A–09 of this subtitle.

(c)] A peace order request shall be filed in the county where the alleged act occurred subject to transfer as provided in § 3–8A–09 of this subtitle.

[(d)] (C) If the alleged delinquent act is escape or attempted escape under § 9–404 or § 9–405 of the Criminal Law Article, the petition, if any, shall be filed and the

1 adjudicatory hearing held in the county where the alleged escape or attempted escape
2 occurred unless the court in the county of the child's domicile requests a transfer. For
3 purposes of the disposition hearing, proceedings may be transferred as provided in §
4 3-8A-09 of this subtitle to the court exercising jurisdiction over the child at the time of the
5 alleged act.

6 Article – Criminal Law

7 3-610.

8 (a) **IN THIS SECTION, “ADULT”, “CHILD”, “CHILD IN NEED OF ASSISTANCE”,**
9 **AND “CINA” HAVE THE MEANINGS STATED IN § 3-801 OF THE COURTS ARTICLE.**

10 (B) An adult may not willfully contribute to, encourage, cause or tend to cause any
11 act, omission, or condition that renders a child in need of assistance.

12 [(b)] (C) A person may be convicted under this section even if the child is not
13 adjudicated a CINA.

14 [(c)] (D) An adult who violates this section is guilty of a misdemeanor and on
15 conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3 years
16 or both.

17 [(d) A petition alleging a violation of this section shall be prepared and filed by the
18 State's Attorney.

19 (e) If an adult is charged under this section, the allegations shall be proved
20 beyond a reasonable doubt.]

21 3-611.

22 (a) **IN THIS SECTION, “ADULT”, “CHILD”, “CHILD IN NEED OF**
23 **SUPERVISION”, “DELINQUENT CHILD”, AND “VIOLATION” HAVE THE MEANINGS**
24 **STATED IN § 3-8A-01 OF THE COURTS ARTICLE.**

25 (B) It is unlawful for an adult willfully to contribute to, encourage, cause or tend
26 to cause any act, omission, or condition which results in a violation, renders a child A
27 delinquent **CHILD** or **A CHILD** in need of supervision.

28 [(b)] (C) A person may be convicted under this section even if the child has not
29 been found to have committed a violation or adjudicated delinquent or in need of
30 supervision. However, the court may expunge a delinquent adjudication from the child's
31 record and enter it as a finding in the adult's case.

32 [(c)] (D) An adult convicted under this section is subject to a fine of not more

1 than \$2,500 or imprisonment for not more than 3 years, or both. The court may suspend
2 sentence and place the adult on probation subject to the terms and conditions it deems to
3 be in the best interests of the child and the public.

4 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2021.