

HOUSE BILL 121

E3, D3

2lr0389

(PRE-FILED)

By: **Delegate Cardin**

Requested: August 18, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court Jurisdiction – Peace Orders – Repeal**

3 FOR the purpose of repealing provisions granting the juvenile court jurisdiction over a
4 peace order proceeding in which the respondent is a minor; and generally relating to
5 juvenile court jurisdiction and peace orders.

6 BY repealing

7 Article – Courts and Judicial Proceedings

8 Section 3–8A–19.1 through 3–8A–19.5

9 Annotated Code of Maryland

10 (2020 Replacement Volume and 2021 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article – Courts and Judicial Proceedings

13 Section 3–8A–01, 3–8A–03(a) and (d), 3–8A–05, 3–8A–08, 3–8A–09(a)(1),
14 3–8A–10(c), (d)(1), (f), (g), (i)(1), and (m), 3–8A–12(a) and (b), 3–8A–13,
15 3–8A–18, 3–8A–19, 3–8A–20, and 3–1502(b)

16 Annotated Code of Maryland

17 (2020 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Courts and Judicial Proceedings

20 Section 3–8A–10(b)

21 Annotated Code of Maryland

22 (2020 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Family Law

25 Section 4–510

26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2019 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–8A–19.1 through 3–8A–19.5 of Article – Courts and Judicial Proceedings of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

3–8A–01.

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

(b) “Adjudicatory hearing” means a hearing under this subtitle to determine whether the allegations in the petition, other than allegations that the child requires treatment, guidance, or rehabilitation, are true.

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

(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.

(f) “Citation” means the written form issued by a police officer which serves as the initial pleading against a child for a violation and which is adequate process to give the court jurisdiction over the person cited.

(g) “Commit” means to transfer legal custody.

(h) (1) “Community detention” means a program monitored by the Department of Juvenile Services in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention.

(2) “Community detention” includes electronic monitoring.

(i) “Competency hearing” means a hearing under this subtitle to determine whether a child alleged to be delinquent is mentally competent to participate in a waiver hearing under § 3–8A–06 of this subtitle, an adjudicatory hearing under § 3–8A–18 of this subtitle, a disposition hearing under § 3–8A–19 of this subtitle, or a violation of probation hearing.

(j) “Court” means the circuit court for a county sitting as the juvenile court.

(k) “Custodian” means a person or agency to whom legal custody of a child has been given by order of the court, other than the child’s parent or legal guardian.

(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.

(n) “Detention” means the temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities.

(o) “Developmental disability” means a severe chronic disability of a child that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is likely to continue indefinitely;

(3) Results in an inability to live independently without external support or continuing and regular assistance; and

(4) Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned and coordinated for the child.

(p) “Disposition hearing” means a hearing under this subtitle to determine:

(1) Whether a child needs or requires guidance, treatment, or rehabilitation; and, if so

(2) The nature of the guidance, treatment, or rehabilitation.

(q) “Incompetent to proceed” means that a child is not able to:

(1) Understand the nature or object of the proceeding; or

(2) Assist in the child's defense.

(r) "Intake officer" means the person assigned to the court by the Department of Juvenile Services to provide the intake services set forth in this subtitle.

(s) (1) "Mental disorder" means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) "Mental disorder" includes a mental illness that so substantially impairs the mental or emotional functioning of a child as to make care or treatment necessary or advisable for the welfare of the child or for the safety of the child or property of another.

(3) "Mental disorder" does not include mental retardation.

(t) "Mental retardation" means a developmental disability that is evidenced by intellectual functioning that is significantly below average and impairment in the adaptive behavior of a child.

(u) "Mentally handicapped child" means a child who is or may be mentally retarded or mentally ill.

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

[(w) "Peace order proceeding" means a proceeding under § 3-8A-19.2 or § 3-8A-19.4 of this subtitle.

(x) "Peace order request" means the initial pleading filed with the court under § 3-8A-19.1 of this subtitle.]

[(y)] (w) "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.

[(z)] (x) "Qualified expert" means a licensed psychologist or licensed psychiatrist who:

(1) Has expertise in child development, with training in the forensic evaluation of children, as approved by the Secretary of Health;

(2) Is familiar with the competency standards contained in this subtitle; and

(3) Is familiar with the treatment, training, and restoration programs for children that are available in this State.

[(aa)] (Y) “Respondent” means the individual against whom a petition [or a peace order request] is filed.

[(bb)] (Z) (1) “Shelter care” means the temporary care of children in physically unrestricting facilities.

(2) “Shelter care” does not mean care in a State mental health facility.

[(cc)] (AA) (1) “Victim” means[:

(i) A] A person who suffers direct or threatened physical, emotional, or financial harm as a result of a delinquent act[; or

(ii) An individual against whom an act specified in § 3–8A–19.1(b) of this subtitle is committed or alleged to have been committed].

(2) “Victim” includes a family member of a minor, disabled, or a deceased victim.

(3) “Victim” includes, if the victim is not an individual, the victim’s agent or designee.

[(dd)] (BB) “Violation” means a violation for which a citation is issued under:

(1) § 5–601 of the Criminal Law Article involving the use or possession of less than 10 grams of marijuana;

(2) § 10–113, § 10–114, § 10–115, or § 10–116 of the Criminal Law Article;

(3) § 10–132 of the Criminal Law Article;

(4) § 10–136 of the Criminal Law Article; or

(5) § 26–103 of the Education Article.

[(ee)] (CC) “Witness” means any person who is or expects to be a State’s witness.

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

1 has received a citation for a violation;

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

4 [(3)] (2) Proceedings arising under the Interstate Compact on Juveniles.

5 (d) The court does not have jurisdiction over:

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

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

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

16 (4) A child at least 16 years old alleged to have committed any of the
17 following crimes, as well as all other charges against the child arising out of the same
18 incident, unless an order removing the proceeding to the court has been filed under §
19 4–202 of the Criminal Procedure Article:

20 (i) Abduction;

21 (ii) Kidnapping;

22 (iii) Second degree murder;

23 (iv) Manslaughter, except involuntary manslaughter;

24 (v) Second degree rape;

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

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

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

30 (ix) Using, wearing, carrying, or transporting a firearm during and
31 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; **OR**

(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].

3–8A–05.

(a) If a person is alleged to be delinquent, the age of the person at the time the alleged delinquent act was committed controls the determination of jurisdiction under this subtitle.

[(b) If a person is alleged to have committed an act under § 3–8A–19.1(b) of this subtitle, the age of the person at the time the alleged act was committed controls the determination of jurisdiction under this subtitle.]

[(c)] **(B)** In all other cases under this subtitle the age of the child at the time the petition is filed controls the determination of jurisdiction under this subtitle.

[(d)] **(C)** In a delinquency proceeding there is no presumption of incapacity as a result of infancy for a child who is at least 7 years old.

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

3–8A–09.

(a) (1) If a petition[, peace order request,] or citation is filed under this subtitle in a county other than the county where the child is living or domiciled, the court on its own motion or on motion of a party, may transfer the proceedings to the county of residence or domicile at any time prior to final termination of jurisdiction, except that the proceedings may not be transferred until after an adjudicatory hearing if the allegation is escape or attempted escape under § 9–404 or § 9–405 of the Criminal Law Article.

3–8A–10.

(b) An intake officer shall receive:

(1) Complaints from a person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court under this subtitle; and

(2) Citations issued by a police officer under § 3–8A–33 of this subtitle.

(c) (1) Except as otherwise provided in this subsection, in considering the complaint, the intake officer shall make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In accordance with this section, the intake officer may, after such

1 inquiry and within 25 days of receiving the complaint:

2 (i) Authorize the filing of a petition [or a peace order request or
3 both];

4 (ii) Propose an informal adjustment of the matter; or

5 (iii) Refuse authorization to file a petition [or a peace order request
6 or both].

7 (4) (i) If a complaint is filed that alleges the commission of an act which
8 would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of
9 the Criminal Law Article, and if the intake officer denies authorization to file a petition or
10 proposes an informal adjustment, the intake officer shall immediately:

11 1. Forward the complaint to the State’s Attorney; and

12 2. Forward a copy of the entire intake case file to the State’s
13 Attorney with information as to any and all prior intake involvement with the child.

14 (ii) The State’s Attorney shall make a preliminary review as to
15 whether the court has jurisdiction and whether judicial action is in the best interests of the
16 public or the child. The need for restitution may be considered as one factor in the public
17 interest. After the preliminary review the State’s Attorney shall, within 30 days of the
18 receipt of the complaint by the State’s Attorney, unless the court extends the time:

19 1. File a petition [or a peace order request or both];

20 2. Refer the complaint to the Department of Juvenile
21 Services for informal disposition; or

22 3. Dismiss the complaint.

23 (iii) This subsection may not be construed or interpreted to limit the
24 authority of the State’s Attorney to seek a waiver under § 3–8A–06 of this subtitle.

25 (d) (1) The intake officer may authorize the filing of a petition [or a peace order
26 request or both] if, based upon the complaint and the inquiry, the intake officer concludes
27 that the court has jurisdiction over the matter and that judicial action is in the best
28 interests of the public or the child.

29 (f) (1) During the informal adjustment process, the child shall be subject to
30 such supervision as the intake officer deems appropriate and if the intake officer decides to
31 have an intake conference, the child and the child’s parent or guardian shall appear at the
32 intake conference.

(2) The informal adjustment process may not exceed 90 days unless:

(i) That time is extended by the court; or

(ii) The intake officer determines that additional time is necessary for the child to participate in a substance-related disorder treatment program or a mental health program that is part of the informal adjustment process.

(3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition [or a peace order request or both] or deny authorization to file a petition [or a peace order request or both] under subsection (g) of this section.

(4) If at any time before the completion of an agreed upon informal adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition [or a peace order request or both] or deny authorization to file a petition [or a peace order request or both] under subsection (g) of this section.

(g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition [or a peace order request or both].

(2) If the intake officer denies authorization to file a petition [or a peace order request or both], the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:

(i) The victim;

(ii) The arresting police officer; and

(iii) The person or agency that filed the complaint or caused it to be filed.

(3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3-8A-11 of this subtitle.

(i) (1) If authorization to file a petition for a complaint which alleges a child is in need of supervision [or if authorization to file a peace order request] is denied, the person or agency that filed the complaint or caused it to be filed, within 15 days of personal notice of the denial to that person or agency or the mailing to the last known address, may submit the denial for review by the Department of Juvenile Services Area Director for the area in which the complaint was filed.

(m) The court may dismiss a petition [or a peace order request] for failure to comply with this section only if the respondent has demonstrated actual prejudice.

3–8A–12.

(a) A statement made by a participant while counsel and advice are being given, offered, or sought, in the discussions or conferences incident to an informal adjustment may not be admitted in evidence in any adjudicatory hearing [or peace order proceeding] or in a criminal proceeding against the participant prior to conviction.

(b) Any information secured or statement made by a participant during a preliminary or further inquiry pursuant to § 3–8A–10 of this subtitle or a study pursuant to § 3–8A–17 of this subtitle may not be admitted in evidence in any adjudicatory hearing [or peace order proceeding] except on the issue of respondent's competence to participate in the proceedings and responsibility for his conduct as provided in § 3–109 of the Criminal Procedure Article where a petition alleging delinquency has been filed, or in a criminal proceeding prior to conviction.

3–8A–13.

(a) A petition shall allege that a child is either delinquent or in need of supervision. If it alleges delinquency, it shall set forth in clear and simple language the alleged facts which constitute the delinquency, and shall also specify the laws allegedly violated by the child. If it alleges that the child is in need of supervision, the petition shall set forth in clear and simple language the alleged facts supporting that allegation.

(b) Petitions alleging delinquency or violation of § 3–8A–30 of this subtitle shall be prepared and filed by the State's Attorney. A petition alleging delinquency shall be filed within 30 days after the receipt of a referral from the intake officer, unless that time is extended by the court for good cause shown. Petitions alleging that a child is in need of supervision shall be filed by the intake officer.

[(c) A peace order request shall be filed by the intake officer in accordance with § 3–8A–19.1(b)(1) of this subtitle or the State's Attorney in accordance with § 3–8A–19.1(b)(2) of this subtitle.]

[(d)] (C) The form of petitions[, peace order requests,] and all other pleadings under this subtitle, and except as otherwise provided in this subtitle, the procedures to be followed by the court under this subtitle, shall be as specified in the Maryland Rules.

[(e)] (D) The State's Attorney, upon assigning the reasons, may dismiss in open court a petition alleging delinquency.

[(f)] (E) (1) The court shall conduct all hearings under this subtitle in an informal manner.

(2) In any proceeding in which a child is alleged to be in need of supervision or to have committed a delinquent act that would be a misdemeanor if committed by an adult [or in a peace order proceeding], the court may exclude the general public from a hearing, and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult, the court shall conduct in open court any hearing or other proceeding at which the child has a right to appear.

(ii) For good cause shown, the court may exclude the general public from a hearing or other proceeding in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the court shall announce in open court adjudications and dispositions in cases where a child is alleged to have committed a delinquent act which would be a felony if committed by an adult.

(ii) For good cause shown, the court may exclude the general public from a proceeding at which an adjudication or disposition is announced and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(5) Notwithstanding the provisions of this subsection, in a case in which the victim of an alleged delinquent act is a child, on petition of the State's Attorney, the court shall exclude the general public from the testimony of the victim during a hearing or other proceeding, including a proceeding at which an adjudication or disposition is announced, and admit during the testimony of the victim only the victim and those persons having a direct interest in the proceeding and their representatives, unless the court finds good cause to receive the testimony of the victim in open court.

[(g)] (F) The court shall try cases without a jury.

[(h)] (G) The court shall hear and rule on a petition seeking an order for emergency medical treatment on an expedited basis.

3-8A-18.

[(a)] The provisions of this section do not apply to a peace order request or a peace order proceeding.]

[(b)] (A) After a petition or citation has been filed with the court under this

1 subtitle, and unless jurisdiction has been waived, the court shall hold an adjudicatory
2 hearing.

3 **[(c)] (B)** (1) Before a child is adjudicated delinquent, the allegations in the
4 petition that the child has committed a delinquent act must be proved beyond a reasonable
5 doubt.

6 (2) Before a child is found to have committed the violation charged in a
7 citation, the allegations in the citation must be proved beyond a reasonable doubt.

8 **[(d)] (C)** If an adult is charged under this subtitle, the allegations must be
9 proved beyond a reasonable doubt.

10 **[(e)] (D)** In all other cases under this subtitle the allegations must be proved by
11 a preponderance of the evidence.

12 **[(f)] (E)** A court may issue a body attachment for witnesses as provided by
13 Maryland Rule 4-267, if:

14 (1) The witness is at least 18 years old; and

15 (2) The case was transferred to the court under § 4-202 of the Criminal
16 Procedure Article.

17 3-8A-19.

18 **[(a)]** The provisions of this section do not apply to a peace order request or a peace
19 order proceeding.]

20 **[(b)] (A)** (1) After an adjudicatory hearing the court shall hold a separate
21 disposition hearing, unless the petition or citation is dismissed or unless such hearing is
22 waived in writing by all of the parties.

23 (2) A disposition hearing may be held on the same day as the adjudicatory
24 hearing if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived
25 on the record by all of the parties.

26 **[(c)] (B)** The priorities in making a disposition are consistent with the purposes
27 specified in § 3-8A-02 of this subtitle.

28 **[(d)] (C)** (1) In making a disposition on a petition under this subtitle, the
29 court may:

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

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

(ii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out-of-home placement if:

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

3 2. The child waives the prohibition described in
4 subparagraph (i) of this paragraph and the court accepts the waiver as knowing, intelligent,
5 and voluntary; or

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

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

13 (iv) This paragraph may not be construed to prohibit the court from
14 committing the child to another appropriate agency.

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

19 (5) The court shall consider any oral address made in accordance with §
20 11-403 of the Criminal Procedure Article or any victim impact statement, as described in
21 § 11-402 of the Criminal Procedure Article, in determining an appropriate disposition on a
22 petition.

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

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

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

1 **[(e)] (D)** (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of
2 this paragraph, in making a disposition on a finding that the child has committed the
3 violation specified in a citation, the court may order the Motor Vehicle Administration to
4 initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child
5 licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified
6 period of not less than 30 days nor more than 90 days.

7 (ii) In this paragraph, “driver’s license” means a license or permit to
8 drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

9 (iii) In making a disposition on a finding that the child has committed
10 a violation of § 10–113 of the Criminal Law Article specified in a citation that involved the
11 use of a driver’s license or a document purporting to be a driver’s license, the court may
12 order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle
13 Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the
14 Motor Vehicle Administration:

15 1. For a first offense, for 6 months; and

16 2. For a second or subsequent offense, until the child is 21
17 years old.

18 (iv) In making a disposition on a finding that the child has committed
19 a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle
20 Administration to initiate an action, under the motor vehicle laws, to suspend the driving
21 privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration
22 for a specified period of not less than 30 days nor more than 90 days.

23 (v) If a child subject to a suspension under this subsection does not
24 hold a license to operate a motor vehicle on the date of the disposition, the suspension shall
25 commence:

26 1. If the child is at least 16 years of age on the date of the
27 disposition, on the date of the disposition; or

28 2. If the child is younger than 16 years of age on the date of
29 the disposition, on the date the child reaches the child’s 16th birthday.

30 (2) In addition to the dispositions under paragraph (1) of this subsection,
31 the court also may:

32 (i) Counsel the child or the parent or both, or order the child to
33 participate in an alcohol or a substance abuse education or rehabilitation program that is
34 in the best interest of the child; or

35 (ii) Order the child to participate in a supervised work program for

not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) In making a disposition on a finding that the child has committed a violation of Title 4, Subtitle 5 or § 9–504 or § 9–505 of the Criminal Law Article, the court may order the Motor Vehicle Administration to initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of a child for a specified period not to exceed:

1. For a first offense, 6 months; and

2. For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If the child is at an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date of the disposition; or

2. If the child is younger than an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date the child is eligible to obtain driving privileges.

(4) (i) In making a disposition on a finding that the child has committed a violation under § 21–1128 of the Transportation Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If, on the date of the disposition, the child is at an age that makes a child eligible to obtain the privilege to drive, on the date of the disposition; or

2. If, on the date of the disposition, the child is younger than an age that makes a child eligible to obtain the privilege to drive, on the date the child is eligible to obtain driving privileges.

[(f)] (E) A guardian appointed under this section has no control over the property of the child unless he receives that express authority from the court.

[(g)] (F) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health – General Article.

[(h)] (G) The court may not commit a child to the custody of the Maryland Department of Health under this section for inpatient care and treatment in a State mental

hospital unless the court finds on the record based upon clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of himself or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available which is consistent with the child's condition and welfare.

[(i)] (H) The court may not commit a child to the custody of the Maryland Department of Health under this section for inpatient care and treatment in a State mental retardation facility unless the court finds on the record based upon clear and convincing evidence that:

(1) The child is mentally retarded;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in-residence care or treatment; and

(3) There is no less restrictive form of care and treatment available which is consistent with the child's welfare and safety.

[(j)] (I) (1) Any commitment order issued under subsection **[(h) or (i)] (G) OR (H)** of this section shall require the Maryland Department of Health to file progress reports with the court at intervals no greater than every 6 months during the life of the order. The Maryland Department of Health shall provide the child's attorney of record with a copy of each report. The court shall review each report promptly and consider whether the commitment order should be modified or vacated. After the first 6 months of the commitment and at 6-month intervals thereafter upon the request of any party, the Department or facility, the court shall grant a hearing for the purpose of determining if the standards specified in subsection **[(h) or (i)] (G) OR (H)** of this section continue to be met.

(2) If, at any time after the commitment of the child to a State mental hospital under this section, the individualized treatment plan developed under § 10-706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection **[(h)] (G)** of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection **[(h)] (G)** of this section continue to be met.

(3) If, at any time after the commitment of the child to a State mental retardation facility under this section, the individualized plan of habilitation developed

under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection [(i)] **(H)** of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection [(i)] **(H)** of this section continue to be met.

3–8A–20.

(a) [Except as provided in subsection (c) of this section, a] **A** party is entitled to the assistance of counsel at every stage of any proceeding under this subtitle.

(b) (1) Except as provided in paragraph (3) of this subsection, a child may not waive the right to the assistance of counsel in a proceeding under this subtitle.

(2) A parent, guardian, or custodian of a child may not waive the child’s right to the assistance of counsel.

(3) After a petition or citation has been filed with the court under this subtitle, if a child indicates a desire to waive the right to the assistance of counsel, the court may not accept the waiver unless:

(i) The child is in the presence of counsel and has consulted with counsel; and

(ii) The court determines that the waiver is knowing and voluntary.

(4) In determining whether the waiver is knowing and voluntary, the court shall consider, after appropriate questioning in open court and on the record, whether the child fully comprehends:

(i) The nature of the allegations and the proceedings, and the range of allowable dispositions;

(ii) That counsel may be of assistance in determining and presenting any defenses to the allegations of the petition, or other mitigating circumstances;

(iii) That the right to the assistance of counsel in a delinquency case, or a child in need of supervision case, includes the right to the prompt assignment of an attorney, without charge to the child if the child is financially unable to obtain private counsel;

(iv) That even if the child intends not to contest the charge or proceeding, counsel may be of substantial assistance in developing and presenting material that could affect the disposition; and

(v) That among the child’s rights at any hearing are the right to call witnesses on the child’s behalf, the right to confront and cross-examine witnesses, the right

to obtain witnesses by compulsory process, and the right to require proof of any charges.

[(c) (1) A party is not entitled to the assistance of counsel at a peace order proceeding.

(2) Paragraph (1) of this subsection does not affect the entitlement of a respondent to the assistance of counsel in a contempt proceeding as provided by law.]

[(d)] (C) (1) Unless the case is dismissed, if a child appears in court without counsel for a waiver hearing under § 3–8A–06 of this subtitle, or an adjudicatory hearing under § 3–8A–18 of this subtitle, and the child has not previously waived the right to the assistance of counsel in accordance with subsection (b) of this section, the court shall continue and the clerk shall reschedule the waiver or adjudicatory hearing.

(2) The clerk shall issue a notice of the date, time, and location of the hearing at least 10 days prior to the date of the hearing.

(3) (i) The Office of the Public Defender shall enter an appearance for the child.

(ii) After entry of its appearance, the Office of the Public Defender shall verify eligibility for continued public defender representation in accordance with § 16–210 of the Criminal Procedure Article and the Maryland Rules.

(4) The continuance of a waiver or adjudicatory hearing under this subsection may not be a basis for detaining the child under § 3–8A–15 of this subtitle.

3–1502.

(b) This subtitle does not apply to[:

(1) A] A petitioner or a petitioner’s employee who is a person eligible for relief, as defined in § 4–501 of the Family Law Article[; or

(2) A respondent who is a child at the time of the alleged commission of an act specified in § 3–1503(a) of this subtitle].

Article – Family Law

4–510.

(a) Except as provided in subsection (b) of this section, by proceeding under this subtitle, a petitioner, including a petitioner who acts on behalf of a child or vulnerable adult, is not limited to or precluded from pursuing any other legal remedy.

(b) A person eligible for relief, as defined in § 4–501 of this subtitle, is not eligible

1 for peace order relief under Title 3, [Subtitle 8A or] Subtitle 15 of the Courts Article.

2 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2022.