## **SENATE BILL 5**

E3 7lr0118 (PRE–FILED)

By: Chair, Judicial Proceedings Committee (By Request - Departmental - Juvenile Services)

Requested: October 20, 2016

Introduced and read first time: January 11, 2017

Assigned to: Judicial Proceedings

## A BILL ENTITLED

AN ACT concerning			
Juvenile Law - Continued Detention - Minimum Age			
FOR the purpose of prohibiting the continued detention, beyond emergency detention, o child under a certain age, except under certain circumstances; and generally relatito juvenile law.			
BY repealing and reenacting, with amendments, Article – Courts and Judicial Proceedings Section 3–8A–15 Annotated Code of Maryland (2013 Replacement Volume and 2016 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-15.			
(a) Only the court or an intake officer may authorize detention, community detention, or shelter care for a child who may be in need of supervision or delinquent.			
(b) If a child is taken into custody under this subtitle, the child may be placed in detention or community detention prior to a hearing if:			
(1) Such action is required to protect the child or others; or			

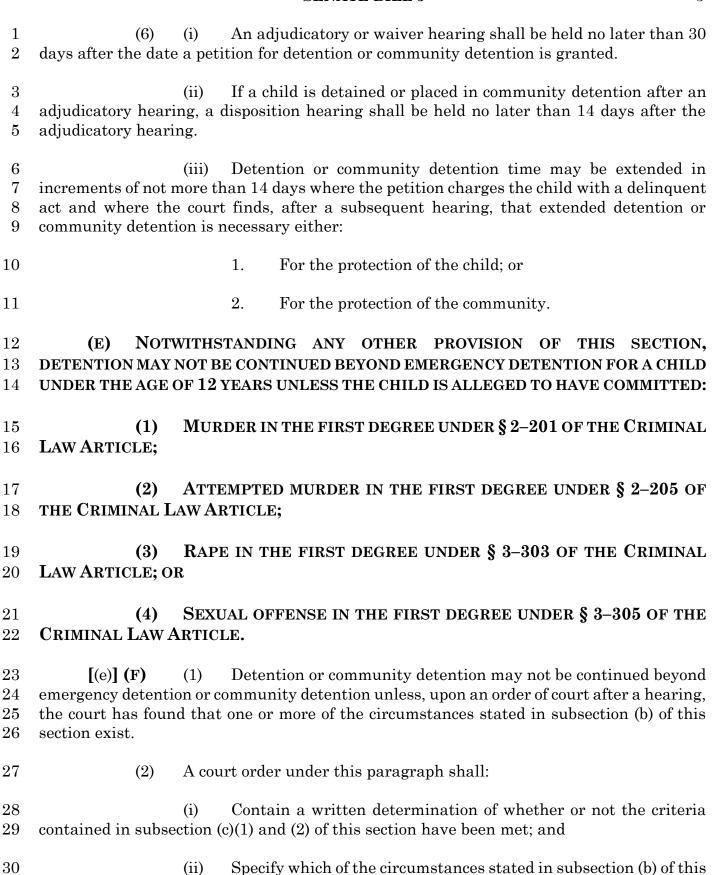
The child is likely to leave the jurisdiction of the court.

(2)

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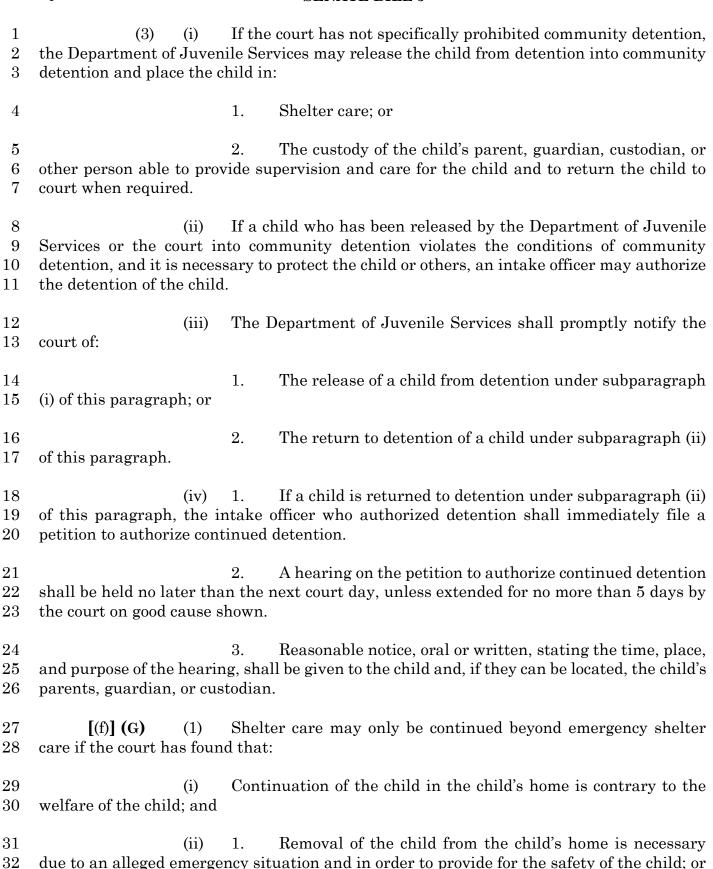


- 1 (c) A child taken into custody under this subtitle may be placed in emergency shelter care or community detention prior to a hearing if:
- 3 (1) (i) Such action is required to protect the child or person and 4 property of others;
- 5 (ii) The child is likely to leave the jurisdiction of the court; or
- 6 (iii) There is no parent, guardian, or custodian or other person able 7 to provide supervision and care for the child and return the child to the court when 8 required; and
- 9 (2) (i) 1. Continuation of the child in the child's home is contrary to 10 the welfare of the child; and
- Removal of the child from the child's home is reasonable under the circumstances due to an alleged emergency situation and in order to provide for the safety of the child; or
- 14 (ii) 1. Reasonable but unsuccessful efforts have been made to prevent or eliminate the need for removal from the child's home; and
- 16 2. As appropriate, reasonable efforts are being made to return the child to the child's home.
- 18 (d) (1) If the child is not released, the intake officer or the official who 19 authorized detention, community detention, or shelter care under this section shall 20 immediately file a petition to authorize continued detention, community detention, or shelter care.
- 22 (2) A hearing on the petition shall be held not later than the next court day, 23 unless extended for no more than 5 days by the court upon good cause shown.
- 24 (3) Reasonable notice, oral or written, stating the time, place, and purpose of the hearing, shall be given to the child and, if they can be found, the child's parents, guardian, or custodian.
- 27 (4) Except as provided in paragraph (5) of this subsection, shelter care may 28 not be ordered for a period of more than 30 days unless an adjudicatory or waiver hearing 29 is held.
- 30 (5) For a child in need of supervision or a delinquent child, shelter care may 31 be extended for an additional period of not more than 30 days if the court finds after a 32 hearing held as part of the adjudication that continued shelter care is consistent with the 33 circumstances stated in subsections (b) and (c) of this section.



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section exist.



Reasonable but unsuccessful efforts were made to prevent or eliminate the need for removal of the child from the home.

1 2 3	(2) emergency, the coreasonable.	(i) urt sha	If the court continues shelter care on the basis of an alleged all assess whether the absence of efforts to prevent removal was	
4 5	was not reasonabl	(ii) e, the o	If the court finds that the absence of efforts to prevent removal court shall make a written determination so stating.	
6 7 8	(3) The court shall make a determination as to whether reasonable efforts are being made to make it possible to return the child to the child's home or whether the absence of such efforts is reasonable.			
9 10	[(g)] (H) A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.			
11	[(h)] (I)	(1)	A child alleged to be in need of supervision may not be placed in:	
12		(i)	Detention or community detention;	
13		(ii)	A State mental health facility; or	
14 15	applicable State li	(iii) censin	A shelter care facility that is not operating in compliance with g laws.	
16 17 18 19	need of supervision may be placed in shelter care facilities maintained or approved by the Social Services Administration or the Department of Juvenile Services or in a private home			
20 21 22 23 24	Services together, when appropriate, with the Secretary of Health and Mental Hygiene shall jointly adopt regulations to ensure that any child placed in shelter care pursuant to a petition filed under subsection (d) of this section be provided appropriate services,			
25		(i)	Health care services;	
26		(ii)	Counseling services;	
27		(iii)	Education services;	
28		(iv)	Social work services; and	
29		(v)	Drug and alcohol abuse assessment or treatment services.	
30	(4)	In ad	dition to any other provision, the regulations shall require:	

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- 1 The Department of Juvenile Services to develop a plan within 45 (i) 2 days of placement of a child in a shelter care facility to assess the child's treatment needs; 3 and
- 4 (ii) The plan to be submitted to all parties to the petition and their 5 counsel.
  - [(i)] **(J)** The intake officer or the official who authorized detention, community detention, or shelter care under this subtitle shall immediately give written notice of the authorization for detention, community detention, or shelter care to the child's parent, guardian, or custodian and to the court. The notice shall be accompanied by a statement of the reasons for taking the child into custody and placing him in detention, community detention, or shelter care. This notice may be combined with the notice required under subsection (d) of this section.
- 13 [(j)] **(K)** (1) If a child is alleged to have committed a delinquent act, the court 14 or a juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, reasonable protections for the safety of the 16 alleged victim.
  - (2)If a victim has requested reasonable protections for safety, the court or juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.
- 21 If a child remains in a facility used for detention for the specific act for 22which the child has been adjudicated delinquent for more than 25 days after the court has 23 made a disposition on a petition under § 3-8A-19 of this subtitle, the Department of 24Juvenile Services shall:
- 25 (1) On the first available court date after the 25th day that the child 26 remains in a facility used for detention, appear at a hearing before the court with the child to explain the reasons for continued detention; and
- 28(2)Every 25 days thereafter, appear at another hearing before the court 29 with the child to explain the reasons for continued detention.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 30 31 October 1, 2017.