SENATE BILL 691

E3 2lr1518

By: **Senator Carter**
Introduced and read first time: February 4, 2022
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 7, 2022

CHAPTER _____

AN ACT concerning

Juvenile Justice Reform

FOR the purpose of altering provisions of law relating to the jurisdiction of the juvenile court, the juvenile intake process, and the placement of a certain child in detention or community detention; altering provisions of law relating to the authority of the juvenile court in making a disposition on a certain petition; specifying the authority of the juvenile court to place a child on probation under certain circumstances; requiring the Governor's Office of Crime Prevention, Youth, and Victim Services to request and analyze certain data, develop a model policy for diversion of juveniles from the juvenile and criminal justice systems, and submit certain reports; establishing the Commission on Juvenile Justice Reform and Emerging and Best Practices; requiring the Department of Juvenile Services to provide a certain report to the General Assembly; and generally relating to juvenile justice.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–03, 3–8A–10(c)(4) and ~~(e)~~ (e)(2) and (3), 3–8A–15(b) and (f) through (l), 3–8A–19(d)(1)(i) and (3), and 3–8A–27(a)(2)(iv)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8A–10(n), 3–8A–15(l), 3–8A–19.6, and 3–8A–19.7
Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

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(2020 Replacement Volume and 2021 Supplement)

BY repealing
Article – Courts and Judicial Proceedings
Section 3–8A–15(e)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 4–202(b), (c), and (i)(1), 4–202.2(a), 10–215(a)(20), and 10–216(d)(1)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 7–303(a)(6)(ii)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to
Article – Public Safety
Section 3–530
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to
Article – State Government
Section 9–3501 and 9–3502 to be under the new subtitle "Subtitle 35. Commission on Juvenile Justice Reform and Emerging and Best Practices"
Annotated Code of Maryland
(2021 Replacement Volume)

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.

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

(1) A child **[**who**]:**

(I) WHO is **AT LEAST 13 YEARS OLD** alleged to be delinquent**;** or

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(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 CRIME PUNISHABLE BY LIFE IMPRISONMENT;**~~

~~**B. FIRST DEGREE CHILD ABUSE UNDER § 3–601 OF THE CRIMINAL LAW ARTICLE;**~~

~~**C. SEXUAL ABUSE OF A MINOR UNDER § 3–602(B) OF THE CRIMINAL LAW ARTICLE;**~~

~~**D. SECOND DEGREE MURDER UNDER § 2–204 OF THE CRIMINAL LAW ARTICLE;**~~

~~**E. ARMED CARJACKING UNDER § 3–405 OF THE CRIMINAL LAW ARTICLE;**~~

~~**F. SECOND DEGREE RAPE UNDER § 3–304 OF THE CRIMINAL LAW ARTICLE;**~~

~~**G. CONTINUING COURSE OF CONDUCT WITH A CHILD UNDER § 3–315 OF THE CRIMINAL LAW ARTICLE; OR**~~

~~**H. THIRD DEGREE SEXUAL OFFENSE UNDER § 3–307 OF THE CRIMINAL LAW ARTICLE; OR**~~ **A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE; 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**; [**or**]**

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

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

[(3)**] (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

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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) 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.

(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;

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(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) 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**; OR**

(7) EXCEPT AS PROVIDED IN SUBSECTION (A)(1)(II) OF THIS SECTION, A DELINQUENCY PROCEEDING AGAINST A CHILD WHO IS UNDER THE AGE OF 13 YEARS.

(e) 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.

(F) A CHILD UNDER THE AGE OF 13 YEARS MAY NOT BE CHARGED WITH A CRIME.

3–8A–10.

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(c) (4) (i) **1. [**If**]** **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF** a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer shall immediately:

[1.**] A.** Forward the complaint to the State's Attorney; and

[2.**] B.** Forward a copy of the entire intake case file to the State's Attorney with information as to any and all prior intake involvement with the child.

2. FOR A COMPLAINT THAT ALLEGES THE COMMISSION OF AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE INTAKE OFFICER IS NOT REQUIRED TO FORWARD THE COMPLAINT AND COPY OF THE INTAKE CASE FILE TO THE STATE'S ATTORNEY IF:

A. THE INTAKE OFFICER PROPOSES THE MATTER FOR INFORMAL ADJUSTMENT;

B. THE ACT DID NOT INVOLVE THE INTENTIONAL CAUSING OF, OR ATTEMPT TO CAUSE, THE DEATH OF OR PHYSICAL INJURY TO ANOTHER; AND

C. THE ACT WOULD NOT BE A CRIME OF VIOLENCE, AS DEFINED UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE, IF COMMITTED BY AN ADULT.

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

1. File a petition or a peace order request or both;

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

3. Dismiss the complaint.

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

(e) ~~(1)~~ ~~**(I)**~~ ~~**[**The**]** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** intake officer **[**may propose an informal adjustment of the matter if**]**,~~

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~~based on the complaint and the inquiry,~~ **[**~~the intake officer concludes~~**]** ~~AND AFTER CONCLUDING that the court has jurisdiction~~ **[**~~but that~~**]**~~, MAY PROPOSE AN INFORMAL ADJUSTMENT OF THE MATTER IF THE INTAKE OFFICER CONCLUDES THAT an informal adjustment, rather than judicial action, is in the best interests of the public and the child.~~

~~(II) THE INTAKE OFFICER SHALL PROPOSE AN INFORMAL ADJUSTMENT OF THE MATTER IF:~~

~~1. THE CHILD WHO IS THE SUBJECT OF THE COMPLAINT HAS NOT BEEN PREVIOUSLY:~~

~~A. ADJUDICATED DELINQUENT; OR~~

~~B. REFERRED FOR AN INFORMAL ADJUSTMENT;~~

~~2. A. THE COMPLAINT ALLEGES THAT THE CHILD COMMITTED AN ACT THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT; OR~~

~~B. IF THE COMPLAINT ALLEGES THAT THE CHILD COMMITTED AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE ACT DID NOT INVOLVE THE INTENTIONAL CAUSING OF, OR ATTEMPT TO CAUSE, THE DEATH OF OR PHYSICAL INJURY TO ANOTHER AND WOULD NOT BE A CRIME OF VIOLENCE, AS DEFINED UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE, IF COMMITTED BY AN ADULT; AND~~

~~3. THE COMPLAINT DOES NOT ALLEGE AN ACT INVOLVING THE USE OR POSSESSION OF A FIREARM.~~

(2) **(I)** **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

(II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE INTAKE OFFICER MAY PROCEED WITH AN INFORMAL ADJUSTMENT WITHOUT INFORMING THE VICTIM AS REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE INTAKE OFFICER HAS MADE REASONABLE EFFORTS TO CONTACT THE VICTIM FOR THE PURPOSE OF INFORMING THE VICTIM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

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(3) The intake officer may not proceed with an informal adjustment unless **[**the victim,**]** the child**[**,**]** and the child's parent or guardian consent to the informal adjustment procedure.

(N) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT ANY TIME BEFORE AN ADJUDICATORY HEARING, THE COURT MAY HOLD THE PROCEEDINGS IN ABEYANCE FOR INFORMAL ADJUSTMENT IF CONSENTED TO BY:

(I) THE STATE'S ATTORNEY;

(II) THE CHILD WHO IS THE SUBJECT OF THE PETITION AND THE CHILD'S COUNSEL; AND

(III) THE COURT.

(2) (I) IF THE CHILD SUCCESSFULLY COMPLETES THE INFORMAL ADJUSTMENT, THE COURT SHALL DISMISS THE DELINQUENCY PETITION.

(II) IF THE CHILD DOES NOT SUCCESSFULLY COMPLETE THE INFORMAL ADJUSTMENT, THE COURT SHALL RESUME PROCEEDINGS UNDER THIS SUBTITLE AGAINST THE CHILD.

3–8A–15.

(b) **(1) [**If**] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, 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)**] (I)** Such action is required to protect the child or others; or

[(2)**] (II)** The child is likely to leave the jurisdiction of the court.

(2) (I) IN THIS PARAGRAPH, "RISK SCORING INSTRUMENT" MEANS A TOOL, A METRIC, AN ALGORITHM, OR SOFTWARE THAT:

1. IS USED TO ASSIST IN DETERMINING THE ELIGIBILITY OF A CHILD FOR RELEASE BEFORE A HEARING; AND

2. HAS BEEN INDEPENDENTLY VALIDATED AT LEAST ONCE IN THE PRECEDING 5 YEARS.

(II) THE COURT OR AN INTAKE OFFICER SHALL CONSIDER THE RESULTS OF A RISK SCORING INSTRUMENT BEFORE PLACING A CHILD IN DETENTION.

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(3) A CHILD ALLEGED TO HAVE COMMITTED A DELINQUENT ACT MAY NOT BE PLACED IN DETENTION BEFORE A HEARING IF THE MOST SERIOUS OFFENSE WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, UNLESS:

(I) THE ACT INVOLVED A HANDGUN AND WOULD BE A VIOLATION UNDER THE CRIMINAL LAW ARTICLE OR THE PUBLIC SAFETY ARTICLE IF COMMITTED BY AN ADULT; OR

(II) THE CHILD HAS BEEN ADJUDICATED DELINQUENT AT LEAST TWICE IN THE PRECEDING 12 MONTHS.

[(e) Notwithstanding any other provision of this section, detention may not be continued beyond emergency detention for a child under the age of 12 years unless:

(1) The child is alleged to have committed an act that, if committed by an adult, would be a crime of violence as defined under § 14–101 of the Criminal Law Article; or

(2) The child is likely to leave the jurisdiction of the court.**]**

[(f)**] (E)** (1) Detention or community detention may not be continued beyond emergency detention or community detention unless, upon an order of court after a hearing, the court has found that one or more of the circumstances stated in subsection (b) of this section exist.

(2) A court order under this paragraph shall:

(i) Contain a written determination of whether or not the criteria contained in subsection (c)(1) and (2) of this section have been met; and

(ii) Specify which of the circumstances stated in subsection (b) of this section exist.

(3) (i) If the court has not specifically prohibited community detention, the Department of Juvenile Services may release the child from detention into community detention and place the child in:

1. Shelter care; or

2. The custody of the child's parent, guardian, custodian, or other person able to provide supervision and care for the child and to return the child to court when required.

(ii) If a child who has been released by the Department of Juvenile Services or the court into community detention violates the conditions of community

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detention, and it is necessary to protect the child or others, an intake officer may authorize the detention of the child.

(iii) The Department of Juvenile Services shall promptly notify the court of:

1. The release of a child from detention under subparagraph (i) of this paragraph; or

2. The return to detention of a child under subparagraph (ii) of this paragraph.

(iv) 1. If a child is returned to detention under subparagraph (ii) of this paragraph, the intake officer who authorized detention shall immediately file a petition to authorize continued detention.

2. A hearing on the petition to authorize continued detention shall be held no later than the next court day, unless extended for no more than 5 days by the court on good cause shown.

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 located, the child's parents, guardian, or custodian.

[(g)**]** **(F)** (1) Shelter care may only be continued beyond emergency shelter care if the court has found that:

(i) Continuation of the child in the child's home is contrary to the welfare of the child; and

(ii) 1. Removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child; or

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

(2) (i) If the court continues shelter care on the basis of an alleged emergency, the court shall assess whether the absence of efforts to prevent removal was reasonable.

(ii) If the court finds that the absence of efforts to prevent removal was not reasonable, the court shall make a written determination so stating.

(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.

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[(h)**] (G)** A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.

[(i)**] (H)** (1) A child alleged to be in need of supervision may not be placed in:

(i) Detention or community detention;

(ii) A State mental health facility; or

(iii) A shelter care facility that is not operating in compliance with applicable State licensing laws.

(2) Subject to paragraph (1)(iii) of this subsection, a child alleged to be in 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 or shelter care facility approved by the court.

(3) The Secretary of Human Services and the Secretary of Juvenile Services together, when appropriate, with the Secretary of Health 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, including:

(i) Health care services;

(ii) Counseling services;

(iii) Education services;

(iv) Social work services; and

(v) Drug and alcohol abuse assessment or treatment services.

(4) In addition to any other provision, the regulations shall require:

(i) The Department of Juvenile Services to develop a plan within 45 days of placement of a child in a shelter care facility to assess the child's treatment needs; and

(ii) The plan to be submitted to all parties to the petition and their counsel.

[(j)**] (I)** 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

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detention, or shelter care. This notice may be combined with the notice required under subsection (d) of this section.

[(k)**] (J)** (1) If a child is alleged to have committed a delinquent act, the court 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 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.

[(l)**] (K)** If a child remains in a facility used for detention **[**for the specific act for which the child has been adjudicated delinquent for more than 25 days after the court has made a disposition on a petition under § 3–8A–19 of this subtitle**]**, the Department of Juvenile Services shall:

(1) **[**On the first available court date after the 25th day that the child remains in a facility used for detention,**] WITHIN 14 DAYS AFTER THE CHILD'S INITIAL DETENTION,** appear at a hearing before the court with the child to explain the reasons for continued detention; and

(2) Every **[**25**] 14** days thereafter, appear at another hearing before the court with the child to explain the reasons for continued detention.

(L) WITHIN 10 DAYS AFTER A DECISION TO DETAIN A CHILD UNDER THIS SUBTITLE IN A FACILITY USED FOR DETENTION, THE DEPARTMENT OF JUVENILE SERVICES SHALL SUBMIT A PLAN TO THE COURT FOR RELEASING THE CHILD INTO THE COMMUNITY.

3–8A–19.

(d) (1) In making a disposition on a petition under this subtitle, the court may:

(i) **[**Place**] SUBJECT TO § 3–8A–19.6 OF THIS SUBTITLE, PLACE** the child on probation or under supervision in his own home or in the custody or under the guardianship of a relative or other fit person, upon terms the court deems appropriate, including community detention;

(3) (i) **[**Except as provided in subparagraph (ii) or (iii) of this paragraph, a**] 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;

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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**] AN OFFENSE THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, UNLESS:**

~~**A. THE OFFENSE INVOLVES A FIREARM; AND**~~

~~**B. THE CHILD HAS BEEN ADJUDICATED DELINQUENT ON A PRIOR OCCASION FOR AN OFFENSE INVOLVING A FIREARM; OR**~~ **THE OFFENSE INVOLVES A FIREARM; OR**

3. A TECHNICAL VIOLATION, AS DEFINED IN § ~~3–8A–19.7~~ 3–8A–19.6 OF THIS SUBTITLE.

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

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

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

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(iii) 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 the court makes a written finding, including the specific facts supporting the finding, that an out–of–home placement is necessary for the welfare of the child or in the interest of public safety.**]**

[(iv)**] (II)** This paragraph may not be construed to prohibit the court from committing the child to another appropriate agency.

3–8A–19.6.

(A) IN THIS SECTION, "TECHNICAL VIOLATION" MEANS A VIOLATION OF PROBATION THAT DOES NOT INVOLVE:

(1) AN ARREST OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER;

(2) A VIOLATION OF A CRIMINAL PROHIBITION, OR AN ACT THAT WOULD BE A VIOLATION OF A CRIMINAL PROHIBITION IF COMMITTED BY AN ADULT, OTHER THAN A MINOR TRAFFIC OFFENSE;

(3) A VIOLATION OF A NO–CONTACT OR STAY–AWAY ORDER; OR

(4) ABSCONDING.

~~(A)~~ (B) THIS SECTION DOES NOT APPLY TO AN OFFENSE COMMITTED BY A CHILD THAT, IF COMMITTED BY AN ADULT, WOULD BE A FELONY AND A CRIME OF VIOLENCE UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE.

(C) THE COURT MAY NOT PLACE A CHILD ON PROBATION FOR A TERM EXCEEDING THAT PROVIDED IN THIS SECTION.

~~(B)~~ ~~(C)~~ (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE MOST SERIOUS OFFENSE COMMITTED BY A CHILD WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT, THE COURT MAY PLACE THE CHILD ON PROBATION FOR A PERIOD NOT EXCEEDING 6 MONTHS.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COURT MAY, AFTER A HEARING, EXTEND THE PROBATION BY PERIODS NOT EXCEEDING 3 MONTHS IF THE COURT FINDS THAT:

(I) THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND

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(II) THE PURPOSE OF EXTENDING THE PROBATION IS TO ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE PROGRAM OR SERVICE.

(3) THE TOTAL PERIOD OF THE PROBATION, INCLUDING EXTENSIONS OF THE PROBATION, MAY NOT EXCEED 1 YEAR.

~~(C)~~ ~~(D)~~ (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION ~~AND SUBSECTION (D) OF THIS SECTION~~, IF THE MOST SERIOUS OFFENSE COMMITTED BY A CHILD WOULD BE A FELONY ~~NOT PUNISHABLE BY LIFE IMPRISONMENT~~ IF COMMITTED BY AN ADULT, THE COURT MAY PLACE THE CHILD ON PROBATION FOR A PERIOD NOT EXCEEDING 1 YEAR.

(2) (I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COURT MAY, AFTER A HEARING, EXTEND THE PROBATION BY PERIODS NOT EXCEEDING 3 MONTHS IF THE COURT FINDS THAT:

1. THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND

2. THE PURPOSE OF EXTENDING THE PROBATION IS TO ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE PROGRAM OR SERVICE.

(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE PROBATION IS EXTENDED UNDER THIS PARAGRAPH, THE TOTAL PERIOD OF THE PROBATION MAY NOT EXCEED 2 YEARS.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COURT MAY EXTEND THE PERIOD OF THE PROBATION FOR A PERIOD OF TIME GREATER THAN THE PERIOD DESCRIBED IN PARAGRAPH (2)(II) OF THIS SUBSECTION IF, AFTER A HEARING, THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

1. THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND

2. EXTENDING THE PROBATION IS IN THE BEST INTEREST OF THE CHILD.

(II) IF THE PROBATION IS EXTENDED UNDER THIS PARAGRAPH, THE TOTAL PERIOD OF PROBATION, INCLUDING EXTENSIONS UNDER PARAGRAPH (2) OF THIS SUBSECTION, MAY NOT EXCEED 3 YEARS.

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~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE MOST SERIOUS OFFENSE COMMITTED BY A CHILD WOULD BE A CRIME THAT, IF COMMITTED BY AN ADULT, WOULD BE PUNISHABLE BY LIFE IMPRISONMENT, THE COURT MAY PLACE THE CHILD ON PROBATION FOR A PERIOD NOT EXCEEDING 2 YEARS.~~

~~(2) THE COURT MAY, AFTER A HEARING, EXTEND THE PROBATION BY PERIODS NOT EXCEEDING 3 MONTHS IF THE COURT FINDS THAT:~~

~~(I) THERE IS GOOD CAUSE TO EXTEND THE PROBATION; AND~~

~~(II) THE PURPOSE OF EXTENDING THE PROBATION IS TO ENSURE THAT THE CHILD COMPLETES A TREATMENT OR REHABILITATIVE PROGRAM OR SERVICE.~~

~~(E)~~ **(F)** **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF A CHILD IS FOUND TO HAVE COMMITTED A VIOLATION OF PROBATION, EXCEPT FOR A TECHNICAL VIOLATION, A COURT MAY, AFTER A HEARING, PLACE THE CHILD ON A NEW TERM OF PROBATION FOR A PERIOD THAT IS CONSISTENT WITH THE PERIOD OF PROBATION THAT MAY BE IMPOSED UNDER THIS SECTION FOR THE DELINQUENT ACT FOR WHICH THE CHILD WAS ORIGINALLY PLACED ON PROBATION.**

3–8A–19.7.

(A) IN THIS SECTION, "TECHNICAL VIOLATION" ~~MEANS A VIOLATION OF PROBATION THAT DOES NOT INVOLVE:~~

~~(1) AN ARREST OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER;~~

~~(2) A VIOLATION OF A CRIMINAL PROHIBITION, OR AN ACT THAT WOULD BE A VIOLATION OF A CRIMINAL PROHIBITION IF COMMITTED BY AN ADULT, OTHER THAN A MINOR TRAFFIC OFFENSE;~~

~~(3) A VIOLATION OF A NO–CONTACT OR STAY–AWAY ORDER; OR~~

~~(4) ABSCONDING~~ **HAS THE MEANING STATED IN § 3–8A–19.6 OF THIS SUBTITLE.**

(B) A CHILD MAY NOT BE PLACED IN A FACILITY USED FOR DETENTION FOR A TECHNICAL VIOLATION.

3–8A–27.

Courtesy of 2A Maryland

(a) (2) This subsection does not prohibit:

(iv) A law enforcement agency of the State or of a political subdivision of the State, when necessary and for the sole purposes of facilitating apprehension of a child and ensuring public safety, from releasing to the public photographs and identifying information of a child who:

1. Has escaped from:

A. A detention center for juveniles;

B. A secure residential facility for juveniles; or

C. A correctional unit as defined in § 2–401 of the Correctional Services Article;

2. Is a missing child as defined in § 9–401 of the Family Law Article; or

3. The court does not have jurisdiction over pursuant to **[**§ 3–8A–03(d)(1), (4), or (5)**] § 3–8A–03(E)(1), (4), OR (5)** of this subtitle and who is subject to:

A. Arrest; or

B. An arrest warrant issued by a criminal court.

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

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

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

Courtesy of 2A Maryland

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

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

(i) (1) The provisions of § 3–8A–27 of the Courts Article relating to confidentiality of records apply to all police records and court records concerning the child excluded from the jurisdiction of the juvenile court under **[**§ 3–8A–03(d)(1), (4), or (5)**] § 3–8A–03(E)(1), (4), OR (5)** of the Courts Article from the time of the child's arrest until:

(i) the time for filing of a motion to transfer to juvenile court under the Maryland Rules has expired and no such motion has been filed; or

(ii) a motion to transfer to juvenile court has been denied.

4–202.2.

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

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

(2) (i) pretrial transfer was prohibited under § 4–202(c)(2) of this subtitle; or

(ii) the court did not transfer jurisdiction after a hearing under § 4–202(b) 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:

(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)**] § 3–8A–03(E)(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(E)(4) OR (5)** of the Courts Article;

10–216.

Courtesy of 2A Maryland

(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)**] § 3–8A–03(E)(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(E)(4) OR (5)** of the Courts Article if the child is at least 16 years old.

Article – Education

7–303.

(a) (6) "Reportable offense" means:

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

Article – Public Safety

3–530.

(A) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REQUEST AND ANALYZE DATA RELATING TO JUVENILES WHO ARE CHARGED, CONVICTED, AND SENTENCED AS ADULTS IN THE STATE, INCLUDING DATA FROM:

(1) LAW ENFORCEMENT AGENCIES IN THE STATE;

(2) THE ADMINISTRATIVE OFFICE OF THE COURTS;

(3) LOCAL CORRECTIONAL FACILITIES IN THE STATE; AND

(4) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) THE INFORMATION COLLECTED AND ANALYZED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE NUMBER OF JUVENILES CHARGED, CONVICTED, AND SENTENCED AS ADULTS;

(2) THE OUTCOMES OF CASES INVOLVING JUVENILES CHARGED AS ADULTS, INCLUDING WHETHER THE CASE RESULTED IN CONVICTION, DISMISSAL, OR

Courtesy of 2A Maryland

TRANSFER TO THE JUVENILE COURT UNDER § 4–202, § 4–202.1, OR § 4–202.2 OF THE CRIMINAL PROCEDURE ARTICLE;

(3) THE NUMBER OF JUVENILES HOUSED IN EACH STATE CORRECTIONAL FACILITY AND LOCAL CORRECTIONAL FACILITY; AND

(4) THE LENGTH OF SENTENCE FOR EACH JUVENILE SENTENCED AS AN ADULT IN THE STATE.

(C) ON OR BEFORE DECEMBER 31, 2023, AND ON OR BEFORE DECEMBER 31 EACH YEAR THEREAFTER, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REPORT ITS FINDINGS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

Article – State Government

SUBTITLE 35. COMMISSION ON JUVENILE JUSTICE REFORM AND EMERGING AND BEST PRACTICES.

9–3501.

IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON JUVENILE JUSTICE REFORM AND EMERGING AND BEST PRACTICES.

9–3502.

(A) THERE IS A COMMISSION ON JUVENILE JUSTICE REFORM AND EMERGING AND BEST PRACTICES.

(B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF JUVENILE SERVICES;

(4) THE SECRETARY OF HUMAN SERVICES; AND

(5) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

Courtesy of 2A Maryland

(I) ONE REPRESENTATIVE OF AN INSTITUTE FOR PUBLIC POLICY THAT SPECIALIZES IN JUVENILE JUSTICE ISSUES IN THE STATE;

(II) ONE REPRESENTATIVE OF AN INSTITUTE OPERATED BY THE UNIVERSITY OF MARYLAND SPECIALIZING IN PROVIDING EVIDENCE–BASED AND CULTURALLY COMPETENT SERVICES FOR JUVENILES; AND

(III) THREE REPRESENTATIVES WITH RELEVANT EDUCATION AND EXPERIENCE.

(C) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION.

(D) THE DEPARTMENT OF JUVENILE SERVICES AND THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE STAFF FOR THE COMMISSION.

(E) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE COMMISSION SHALL:

(1) RESEARCH CULTURALLY COMPETENT, EVIDENCE–BASED, RESEARCH–BASED, AND PROMISING PRACTICES RELATING TO:

(I) CHILD WELFARE;

(II) JUVENILE REHABILITATION;

(III) MENTAL HEALTH SERVICES FOR CHILDREN; AND

(IV) PREVENTION AND INTERVENTION SERVICES FOR JUVENILES;

(2) EVALUATE THE COST–EFFECTIVENESS OF PRACTICES RESEARCHED BY THE COMMISSION;

(3) IDENTIFY MEANS OF EVALUATING THE EFFECTIVENESS OF PRACTICES RESEARCHED BY THE COMMISSION; AND

(4) GIVING SPECIAL ATTENTION TO ORGANIZATIONS LOCATED IN OR SERVING HISTORICALLY UNDERSERVED COMMUNITIES, IDENTIFY STRATEGIES TO

Courtesy of 2A Maryland

ENABLE COMMUNITY–BASED ORGANIZATIONS THAT PROVIDE SERVICES FOR JUVENILES TO EVALUATE AND VALIDATE SERVICES AND PROGRAMMING PROVIDED BY THOSE ORGANIZATIONS.

(G) ON OR BEFORE DECEMBER 31, 2023, AND ON OR BEFORE DECEMBER 31 EACH YEAR THEREAFTER, THE COMMISSION SHALL REPORT ITS FINDINGS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 15, 2023, the Department of Juvenile Services shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

(1) plans to publish an annual report by the Department of Juvenile Services, in consultation with the Maryland Department of Health, on the length of stay for juveniles in secure facilities while undergoing competency evaluations and receiving services;

(2) plans for the inclusion of information and data relating to use of a risk assessment tool in the Department of Juvenile Services' Data Resource Guide;

(3) the use of community detention for juveniles in the care and custody of the Department of Juvenile Services;

(4) the Department of Juvenile Services' development of forms for community detention that do not include information relating to house arrests;

(5) the effect of a requirement that the Department of Juvenile Services provide a robust continuum of community–based alternatives to detention in all jurisdictions of the State and recommendations for establishing the requirement;

(6) access to mental health services for all juveniles served by the Department of Juvenile Services;

(7) the feasibility of and any plans for providing quality, evidence–based programming for juveniles detained in secure juvenile facilities, including educational programming, structured weekend activities, and activities involving family members of detained juveniles;

(8) the use of community detention, including electronic monitoring, for juveniles placed on probation;

(9) plans to increase the number of shelter beds available in juvenile facilities, particularly beds for girls;

Courtesy of 2A Maryland

(10) plans to track and report data on the number of days juveniles ordered to shelter care placements remain in secure juvenile facilities;

(11) minimum training standards for staff at juvenile facilities;

(12) surveillance systems at juvenile facilities, including whether all juvenile facilities are equipped with functioning surveillance cameras capable of monitoring all areas of juvenile facilities;

(13) minimum standards for facilitating family engagement for juveniles at juvenile facilities, including standards for facilitating daily contact between juveniles and their family members;

(14) standards for attorneys to access their clients within all juvenile facilities in the State;

(15) plans to adopt cognitive behavioral therapy training and restorative justice training for staff at all juvenile facilities in the State; and

(16) plans to transition from the current slate of secure juvenile facilities to ensure access to both nonresidential and residential facilities that use culturally competent, evidence–based programming in all jurisdictions of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2023, the Governor's Office of Crime Prevention, Youth, and Victim Services shall:

(1) (i) develop a model policy for diversion of juveniles from the juvenile justice system and criminal justice system;

(ii) identify funding opportunities to support diversion programs for juveniles in the State, including local programs; and

(iii) collect and evaluate data related to the implementation and effectiveness of diversion programs for juveniles in the State; and

(2) report its findings to the General Assembly, in accordance with § 2–1257 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022.

Courtesy of 2A Maryland

SEQ NO. 627
Presiding: Mr. President

Calendar Date: Mar 21, 2022 12:35 (PM)
Legislative Date: Mar 8, 2022

Senate of Maryland
2022 Regular Session

SB 691 Third Reading (SB) Calendar No.54
Senator Carter (JPR)
Juvenile Justice Reform

On Third Reading

29 Yeas **17 Nays** **1 Not Voting** **0 Excused** **0 Absent**

Voting Yea - 29

Mr. President	Ellis	Jackson	Lee	Waldstreicher
Augustine	Feldman	Kagan	McCray	Washington
Beidle	Griffith	Kelley	Patterson	Watson
Benson	Guzzone	King	Pinsky	Young
Carter	Hayes	Kramer	Smith	Zucker
Elfreth	Hettleman	Lam	Sydnor	

Voting Nay - 17

Bailey	Eckardt	Hester	Klausmeier	Salling
Carozza	Edwards	Hough	Ready	Simonaire
Cassilly	Gallion	Jennings	Reilly	West
Corderman	Hershey			

Not Voting - 1

Rosapepe

Excused from Voting - 0

Excused (Absent) - 0

Courtesy of 2A Maryland

SEQ NO. 867
Presiding: Speaker

Calendar Date: Mar 31, 2022 10:38 (AM)
Legislative Date: Mar 24, 2022

Maryland House of Delegates
General Assembly of Maryland 2022 Regular Session

SB 691 Third Reading (SB) Calendar No.10
Senator Carter (JUD)
Juvenile Justice Reform

On Third Reading

92 Yeas **42 Nays** **1 Not Voting** **0 Excused** **6 Absent**

Voting Yea - 92

Speaker	Carey	Healey	Love	Smith
Acevero	Carr	Henson	Luedtke	Solomon
Amprey	Chang	Hill	McIntosh	Stein
Anderson	Charkoudian	Holmes	Moon	Stewart
Attar	Charles	Howell	Palakovich Carr	Terrasa
Atterbeary	Clippinger	Ivey	Patterson	Toles
Bagnall	Crutchfield	Jalisi	Pena-Melnyk	Turner
Barnes, B.	Cullison	Jones, D.	Pendergrass	Valderrama
Barnes, D.	Davis	Jones, R.	Prettyman	Valentino-Smith
Bartlett	Ebersole	Kaiser	Proctor	Walker
Barve	Feldmark	Kelly	Qi	Washington
Belcastro	Fennell	Kerr	Queen	Watson
Bhandari	Fisher, W.	Korman	Reznik	Wells
Boyce	Foley	Landis	Rogers	Wilkins
Branch, C.	Forbes	Lehman	Rosenberg	Williams
Branch, T.	Fraser-Hidalgo	Lewis, J.	Ruth	Wilson
Bridges	Gilchrist	Lewis, R.	Sample-Hughes	Young, K.
Brooks	Guyton	Lierman	Shetty	Young, P.
Cardin	Harrison			

Voting Nay - 42

Adams	Clark	Impallaria	Mangione	Otto
Anderton	Cox	Jackson	Mautz	Parrott
Arentz	Crosby*	Jacobs	McComas	Pippy
Arikan	Fisher, M.	Johnson*	McKay	Reilly
Beitzel	Ghrist	Kipke	Metzgar	Rose
Boteler	Griffith	Kittleman	Morgan	Saab
Buckel	Hartman	Krebs	Munoz	Szeliga
Chisholm	Hornberger	Lisanti	Novotny	Wivell
Ciliberti	Howard			

Not Voting - 1

Shoemaker

Excused from Voting - 0

Excused (Absent) - 6

Conaway	Krimm	Long	Lopez	Thiam
Grammer				

Courtesy of 2A Maryland