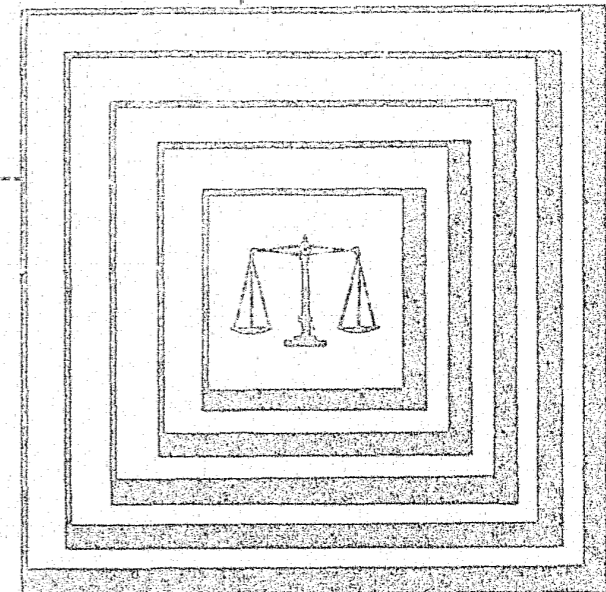


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Commission
on

**JUVENILE
JUSTICE**



1977 FINAL REPORT

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FINAL REPORT
OF THE
COMMISSION
ON
JUVENILE JUSTICE

TO

THE GOVERNOR
AND
THE GENERAL ASSEMBLY
OF MARYLAND

NCJRS

JUN 28 1977

ACQUISITIONS

JANUARY 1, 1977

Please address all correspondence with regard to this Report to
The Commission on Juvenile Justice:

Suite 1513 State Office Building
301 West Preston Street
Baltimore, Maryland 21201
Telephone: 301-383-4964



MARVIN MANDEL
GOVERNOR

GOVERNOR'S COMMISSION ON JUVENILE JUSTICE
301 WEST PRESTON STREET, SUITE 1513
BALTIMORE, MARYLAND 21201

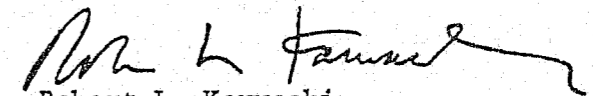
January 1, 1977

HON. ROBERT L. KARWACKI
CHAIRMAN

TO: THE GOVERNOR, LEGISLATURE, THE JUDICIARY, MEMBERS OF
THE BAR AND THE CITIZENS OF THE STATE OF MARYLAND

We submit herewith our Final Report pursuant to House Joint Resolution 50 of the 1975 session of the General Assembly. It is our hope that this Report will be read, discussed, and acted upon by those citizens and individuals in public and private life who wish to join us in the effort to improve our system of juvenile justice in Maryland.

Sincerely,


Robert L. Karwacki
Chairman

COMMISSION MEMBERSHIP

RICHARD W. BATEMAN, D.S.W.
DIRECTOR
SOCIAL SERVICES ADMINISTRATION
DEPARTMENT OF HUMAN RESOURCES

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ANNE ARUNDEL COUNTY

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BALTIMORE COUNTY CIRCUIT COURT

HON. ROBERT L. KARWACKI, CHAIRMAN
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SUPREME BENCH OF BALTIMORE CITY
PRESIDING JUDGE, BALTIMORE CITY
JUVENILE COURT

MRS. JOSEPHINE KOHN
COORDINATOR OF SPECIAL PROGRAMS
OFFICE OF THE SECRETARY
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

HON. MARION MATTINGLY
PAST CHAIRPERSON
MONTGOMERY COUNTY JUVENILE COURT COMMITTEE
MEMBER, NATIONAL ADVISORY COMMITTEE FOR
JUVENILE JUSTICE AND DELINQUENCY
PREVENTION

MRS. EILEEN L. LEWIS
EXECUTIVE SECRETARY

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FORMER DIRECTOR
NORTHWEST YOUTH SERVICE BUREAU

HON. DOUGLAS H. MOORE, JR.
JUDGE-IN-CHARGE, JUVENILE DIVISION
DISTRICT COURT, MONTGOMERY COUNTY

RIVA NOVEY, M.D.
ASSISTANT PROFESSOR OF CLINICAL PSYCHOL
COUNSELING AND PSYCHIATRIC SERVICES
JOHNS HOPKINS UNIVERSITY

ALFRED J. O'FERRALL, III, ESQ.
DEPUTY PUBLIC DEFENDER
STATE OF MARYLAND

HON. DAVID GRAY ROSS
DELEGATE, MARYLAND GENERAL ASSEMBLY
PRINCE GEORGE'S COUNTY

MR. REX C. SMITH
DEPUTY DIRECTOR
JUVENILE SERVICES ADMINISTRATION
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

*MR. ROBERT STEPHENS
DIVISION CHIEF
OFFICE OF CENTRAL COMMITMENT
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

MR. RICHARD C. WERTZ
EXECUTIVE DIRECTOR
GOVERNOR'S COMMISSION ON LAW ENFORCEMENT
AND THE ADMINISTRATION OF JUSTICE

MR. ALAN M. WILNER, ESQ.
CHIEF LEGISLATIVE OFFICER
EXECUTIVE DEPARTMENT
STATE OF MARYLAND

*Mr. Stephens was designated to represent the Department of Health and Mental Hygiene during Mrs. Kohn's extended leave from her position.

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SUMMARY OF MAJOR LEGISLATION
AND RECOMMENDATIONS
OF THE
COMMISSION ON JUVENILE JUSTICE

I. COURT STRUCTURE

1. Family Courts should not be implemented at this time. Juvenile justice should be improved through exercise by juvenile courts of existing statutory authority to control the conduct of persons before the court, especially parents, and coordinating councils should be formed in multi-judge jurisdictions to assure that non-delinquency family cases are brought to the attention of the juvenile court judge.
2. Level of court does not determine the quality of court; personnel and supportive services do. It is not necessary to position juvenile courts on the highest trial level nor is it necessary to maintain a statewide uniform court level, but it is necessary to achieve a high quality of justice.
3. The recent Constitutional Amendment which allows utilization of District Court jurisdiction for juvenile causes requires guidelines for implementation.
 - a. The juvenile court may function within the District Court and/or the Circuit Court; a bi-level system may exist within one jurisdiction.
 - b. Waiver, adjudicatory and disposition hearings should be held in one central location in each county and Baltimore City.
 - c. There is a need to involve more judges in juvenile courts; therefore, District Court judges should be used in Circuit Court and Circuit Court judges should be used in District Court in exercise of juvenile jurisdiction.
 - d. Court records should be centralized.
 - e. Any legislation changing jurisdiction from District to Circuit or from Circuit to District should address judicial, administrative and Agency co-ordination and utilization; and, if a bi-level plan, co-ordination between court levels.
4. A State Administrative Judge for Juvenile Causes should be appointed; such judge would act as a leader in assuring uniformity of enforcing the Code, provide a central focus for juvenile concerns, and co-ordinate administrative functions regardless of whether a bi-level system exists. (See Proposed Legislation in Appendix C.1.)

II. JUDICIAL PERSONNEL

1. The Juvenile Master System should be abolished by July 1, 1978. (See Proposed Legislation in Appendix C.2.)
2. More judges should have experience in administering juvenile justice. Juvenile court judges require special pre-service and continuing educational programs.

III. ORIGINAL JURISDICTION AND WAIVER

Juvenile courts should have original jurisdiction over all offenses alleged to have been committed by youth under 18, except for traffic and boat offenses not punishable by imprisonment. Juvenile courts should be authorized to waive any child to Criminal Court without age restriction. (See Proposed Legislation in Appendix C.3.)

IV. CINS AND CINA

Provisions in the Juvenile Code with regard to Children in Need of Assistance and Children in Need of Supervision should be amended to:

- a. change the definition of CINA
- b. expand Intake responsibilities
- c. create an Interagency Council for the coordination of services for children
- d. provide guidelines for the court in choosing dispositional alternatives
- e. require periodic review of the progress of children under commitment by the court.

(See Proposed Legislation in Appendix C.4.)

V. DETENTION

1. Chapter 526 of the Laws of 1976 (HB 1969) which allows alleged delinquents to be housed in jails until January 1, 1978, should be repealed immediately. Suitable alternatives are now available. (See Proposed Legislation in Appendix C.5)
2. Maryland Children's Center should be utilized for limited detention purposes without curtailing present diagnostic capabilities. (See Proposed Legislation in Appendix C.8, Art. 52A §12(c))
3. Holdover facilities should be developed by or approved by Juvenile Services Administration. (See Proposed Legislation in Appendix C.8., Art. 52A §12(D))
4. The detention period prior to a waiver hearing should be limited to thirty days. (See Proposed Legislation in Appendix C.8., §3-815(c))
5. Traffic offenders who are not under juvenile court jurisdiction should be detained or sheltered in juvenile facilities pending District Court trial. (See Proposed Legislation in Appendix C.8, §3-804(F))

VI. INTAKE

1. Intake should notify the complainant of its decision to not file a formal petition. (See Proposed Legislation in Appendix C.8, §3-810(b)(c)(h)(i))

2. All multiple alleged offenders involved in a joint delinquent act should be referred for formal action of the court by Intake if any one alleged offender is referred, absent recorded exceptional circumstances. (See Proposed Legislation in Appendix C.8, §3-810(J))

VII. INADMISSIBLE EVIDENCE

1. Preliminary investigation by an Intake Officer should not be introduced during an adjudicatory delinquency hearing except to determine the child's mental competence to participate in the hearing and/or his legal responsibility for his acts. (See Proposed Legislation in Appendix C.8, §3-811(b))
2. Statements made at a waiver hearing should not be admissible at an adjudicatory hearing except if perjury is alleged. (See Proposed Legislation in Appendix C.8, §3-811(D))

VIII. PARENTAL RESPONSIBILITY

1. An alternate civil action should be provided for victims of juvenile crime in addition to the remedy now available in the juvenile courts. (See Proposed Legislation in Appendix C.6)
2. Juvenile courts should be authorized to order parents to participate in counseling or other rehabilitative services when such action is in the best interest of the child and family. (See Proposed Legislation in Appendix C.8, §3-820(b)(3))

IX. CHILDREN IN MENTAL HOSPITALS

Children in mental hospitals should be housed and treated separately from adult patients. (See Proposed Legislation in Appendix C.7)

RESOLUTIONS ON PROGRAMS AND SERVICES
OF THE
COMMISSION ON JUVENILE JUSTICE

1. The Co-ordination of Children's Services: RESOLVED that the Juvenile Services Administration should be removed from the Department of Health and Mental Hygiene so that it becomes a separate agency responsible directly to the Governor.
2. CINS-Institutionalization: RESOLVED that the Commission opposes the development of programs for the purpose of institutionalizing CINS.
3. Mental Health: Care and Treatment: RESOLVED that any child under 18 years of age admitted, committed, or transferred to a mental health facility shall be housed and treated separately from adult patients unless the court rules that a program of care and treatment with adult patients would be in the best interest of the child.
4. Mental Health: Aftercare: RESOLVED that funds should be appropriated to the Mental Health Administration allowing it to develop aftercare programs for children returning to the community following residential treatment.
5. Juvenile Services Evaluation: RESOLVED that an evaluation of children's programs operated by Juvenile Services Administration should be conducted, and that adequate funds should be provided for the development of the evaluative design.
6. Alternatives to Juvenile Counselor Positions: RESOLVED that Juvenile Services Administration should undertake an internal study of tasks performed by juvenile counselors to determine if more efficient services could be rendered through innovative techniques such as the use of para-professionals, volunteers and assigning differential caseloads.
7. Out-of-State Purchase of Care: RESOLVED that the Mental Hygiene Administration, the Mental Retardation Administration, the Social Services Administration, the Department of Education and the Juvenile Services Administration should co-ordinate their efforts to provide services to children within Maryland, and that out-of-State placements of children for care should be discouraged.
8. Parent's Financial Responsibility for Services Rendered: RESOLVED that the Division of Reimbursement of the Department of Health and Mental Hygiene should actively enforce §3-830, Parents liable for support after commitment, of the Juvenile Causes Subtitle.
9. Community Arbitration Program: RESOLVED that since Community Arbitration is an Intake function, no legislation is necessary to authorize Intake to expand the program to other jurisdictions; however, funds for staff who are involved in carrying out the Arbitration decision should be provided to assure the program's effectiveness.
10. Maximum Security Institution: RESOLVED that the Commission opposes the construction of a maximum security facility for juveniles, and that the Commission supports the Juvenile Services Administration's alternative programs and plans for serious delinquent offenders.
11. Prevention: RESOLVED that prevention should be the priority in developing services for the children and youth of Maryland; that the school system should play an integral role in prevention; and that as a part of prevention funds should be appropriated for the diagnosis and treatment of learning disabilities.

COMMISSION ON JUVENILE JUSTICE
REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY

I.
INTRODUCTION

A. History and Working Method of the Commission

The Commission on Juvenile Justice was created pursuant to House Joint Resolution 50, enacted by the General Assembly in 1975. The Commission's purpose as stated in the resolution is to "review and evaluate the existing laws, programs, and services relating to the juvenile justice system in Maryland..." (See Appendix A) In compliance with the mandate, the Commission membership is made up of persons with varying backgrounds in the juvenile justice system. The Commission includes members from the executive, judicial and legislative branches of the State, representatives from major agencies involved with serving the juvenile justice system, and private citizens with special commitment to youth. During its first four months of operation the Commission prepared and has introduced an omnibus bill (HB 969 of 1976) to revise those areas of the Juvenile Causes Subtitle which the Commission believed were causing problems in court administration. The Commission also recommended a Constitutional Amendment to allow the General Assembly to provide for the utilization of the District Court in various aspects of juvenile causes in those areas of the State where such utilization would be advantageous. The Amendment was approved by the electorate on November 2, 1976. These bills are discussed in detail in the Commission's Interim Report (1976).

In the Interim Report the Commission requested staff assistance to aid it in fulfilling the broad mandate of the Resolution. Subsequently

staff, consisting of Mrs. Eileen L. Lewis, Executive Secretary, and Ms. Marion Meckler, Research Assistant and Office Secretary, were employed. Ms. Jeanette Boyd, a student intern from the University of Maryland School of Social Work and Community Planning, fulfilled her field placement with the Commission. The Commission wishes to give Ms. Boyd special recognition for her contribution of effort and time spent far above the requirements of her placement. The Commission is grateful to Mr. Lawrence Chambers, Legislative Analyst for the Department of Legislative Reference who has drafted all Commission bills. Invaluable assistance was also voluntarily provided by Mr. Luke V. Howard, Regional Supervisor, Juvenile Services Administration, to whom the Commission expresses its sincere appreciation.

The Commission held twenty-eight meetings and additional subcommittee meetings during seventeen months of activity. Before developing the Commission's final recommendations, the Commission called a special all-day meeting to compare and evaluate law and practice in Maryland with Commission recommendations and standards proposed by the Task Force on Juvenile Justice and Delinquency Prevention.

All meetings were open to the public, and an effort was made to reach as many people as possible for input. A mailing list of over one hundred persons was developed, and they and the press throughout the State received notices, agendas, and minutes or releases of the Commission's work. Contact was maintained with other Commissions, agencies, and organizations with similar interests. One collaborative result of this effort is the Children in Need of Assistance legislation. The University of Maryland Developmental Disabilities Law Clinic, represented by Nancy Shuger, Esq., played a vital role in presenting and working on this subject with the Commission.

Specific tasks which were used to help the Commission review the juvenile justice system included reviewing relevant bills from the 1976 session of the General Assembly, considering the national standards proposed by the Task Force on Juvenile Justice and Delinquency Prevention, and hearing testimony from persons with knowledge of the juvenile justice system. These reports and working papers, as well as other staff reports are listed in Appendix B, and may be obtained by writing to the Department of Legislative Reference, 90 State Circle, Annapolis, Maryland 21404.

B. Philosophy of the Commission

The Commissioners, despite varied backgrounds and divergent points of view, find common ground in their belief that the juvenile court must be strengthened, and that such an improved court can go far towards achieving a just and effective system to deal with troubled children and youth. It reaffirms the original positive purpose of the court as expressed in the juvenile causes subtitle: "to provide for the care, protection, and wholesome mental and physical development of children...; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest; (2) to remove...the taint of criminality and the consequences of criminal behavior; (3) to conserve and strengthen the child's family ties..." Code, Courts Article, §3-802(a).

The Commissioners believe that strengthening the court through an exemplary code is but one half of the task of improving juvenile justice. The other half involves the upgrading of programs and services which is critical to the court's capability for implementing the code. Unless programs are adequate in number, diverse in services, and administered with State-wide co-ordination, present gaps and fragmenta-

tion of services will continue to minimize the effectiveness of Maryland's juvenile justice system. Comprehensive planning based on sound standards of service delivery must be undertaken, and those plans must be implemented through adequate funding.

The Commission believes that, with the support of the people of Maryland, the juvenile justice system will rise to reach the status it deserves. It is the hope of the Commission that the legislation and recommendations proposed in this report offer a significant step toward achieving that goal.

II. THE JUVENILE COURT SYSTEM

The goal of the juvenile courts of this State should be to provide the highest level of justice possible to Maryland's youth. The Commission examined the following topics to discover ways to achieve this goal:

- A. Court Structure
 - 1. Family Court
 - 2. Court Level
 - 3. Court Leadership
- B. Judicial Personnel
 - 1. Use of Masters
 - 2. Use of Judges

In arriving at its decisions, standards and models promulgated by State (Maryland Bar Association, Maryland Judicial Conference) and national organizations (NCCD, NAC, HEW, IJA/ABA)* were examined. These recommendations provided a framework for examining the system and thus became means to evaluate what would best serve Maryland's needs and achieve a just, efficient and uniform court system.

A. Court Structure

1. Family Court

Most standard setting groups recommend implementing a Family Court, and the idea has growing support in Maryland. Recommendations for family court jurisdiction include some combination of juvenile causes, support, adoption, divorce, custody and intra-family disputes. Ideally one judge hears all cases involving a particular family and the court has access to all official records concerning that family.

*NCCD-National Council on Crime and Delinquency; NAC-National Advisory Commission on Criminal Justice Standards and Goals; HEW-Department of Health, Education and Welfare; IJA/ABAOInstitute of Judicial Administration/American Bar Association)

The Commission sees the main benefit to be derived from a family court structure to be a shift in emphasis from the individual child to the family as a whole. The problems that have led to judicial intervention, which may be symptomatic of a family crisis are thus placed in the context of the total family situation, removing the onus and need for fault-finding from the child.

A good family court not only requires skilled full-time judges, but an excellent, co-ordinated agency and records system. So, though conceptually appealing, the need for increased fiscal, judicial and agency resources makes such a plan difficult to implement. Difficulties foreseen include the cost and disruption of setting up the system, the need for comprehensive planning, co-ordination and possible reorganization of family services agencies, and the issue of access to information and assuring the confidentiality of juvenile records. Rather than recommending a major change, which may look good on paper, but which is meaningless without detailed planning, increased resources, and public and fiscal support, the Commission concludes the better course is to find ways to improve and to begin to implement some aspects of a family court within the present juvenile system. The Commission believes that authority for this latter goal now exists in §3-827 of the Juvenile Causes Subtitle:

§3-827. Order controlling conduct of person before court.

Pursuant to the procedure provided in the Maryland Rules, the court may make an appropriate order directing, restraining, or otherwise controlling the conduct of a person who is properly before the court, if:

- (1) The court finds that the conduct:
 - (a) Is or may be detrimental or harmful to a child over whom the court has jurisdiction; or
 - (b) Will tend to defeat the execution of an order or disposition made or to be made; or
 - (c) Will assist in the rehabilitation of or is necessary for the welfare of the child; and

(2) Notice of the application or motion and its grounds has been given as prescribed by the Maryland Rules.

The Chief Judge of the Court of Appeals has initiated plans for an experimental family division. This experiment will serve to demonstrate needs and limitations to be addressed if a decision to continue along family court lines is made.

The Commission views the need to co-ordinate information and child welfare services as the most important issue to be addressed in considering ways to improve the present system. A service agency co-ordinating group should be formed to meet regularly and control all out-of-court functions. Additionally, some mechanism within the court structure will be necessary to clarify to all judges in civil and criminal courts their responsibility to present relevant information to the juvenile court.

The Commission's position may be summarized as follows:

MANY OF THE DESIRABLE ASPECTS OUTLINED FOR FAMILY COURT, NAMELY THE ABILITY TO INCLUDE MATTERS RELEVANT TO JUVENILE PROBLEMS, PRESENTLY EXIST IN MARYLAND. WHAT IS NEEDED IS TO STRENGTHEN AND IMPROVE THE JUVENILE COURT RATHER THAN TO CREATE A NEW SYSTEM.

THEREFORE:

- 1) THE JUVENILE COURTS SHOULD EXERCISE THE AUTHORITY GIVEN UNDER §3-827, AND
- 2) THE COURTS OF EACH MAJOR JURISDICTION SHOULD CONSIDER FORMING A COORDINATING COUNCIL FOR THE PURPOSE OF COORDINATING CASELOADS AND ASSURING THAT OTHER CASES WHICH INVOLVE THE FAMILY ARE BROUGHT TO THE ATTENTION OF A JUVENILE JUDGE IF THAT INFORMATION HAS BEARING ON THE CASE BEFORE HIM.

2. Court Level

All standard setting groups favor placing courts with jurisdiction over juvenile causes on the highest trial court level of the State for the following reasons: more status and prestige; higher salaries; better facilities; attraction and retention of better judges; more credibility since appeals go directly to appellate court. These

groups argue that placing juvenile causes on this level optimizes the chances of a quality court and reflects the positive attitude that this is an important branch of the judicial system.

Presently in Maryland all juvenile courts but one do exist on the Circuit Court level. Montgomery County operates its juvenile court within the District Court jurisdiction, but this exception does not prove the rule. This court is highly regarded by the people it serves, and by judges throughout the State. Its success is attributable to fine judges, efforts of Montgomery County citizens to ensure a quality court, and to the smooth functioning of District Court.

The District Court is a "lower" court in terms of the State's vertical court structure. It is not an "inferior court" in terms of quality. This recently organized, state-funded court has newer equipment, facilities, and mode of operation than many of the locally funded and administered Circuit Courts. It retains assets of the people's courts and trial magistrates it replaced--accessibility, speed and a closeness to the community it serves. The state-wide administrative structure and funding ensures uniformity in resources, practice and interpretation. Appeals in juvenile causes go directly to the Court of Special Appeals, a potential drawback of lower-court positioning in other states which does not apply in Maryland.

The unfortunate connotations of the words "superior" and "inferior" should not be applied to the content of Maryland's District and Circuit Courts. The fact that an excellent juvenile court now exists on the District Court level also augers well that no diminution of excellence would necessarily result in a carefully planned District

Court for juvenile causes. A good court is not determined by its level, but by the quality of its personnel and supportive services.

The Commission therefore agrees that, in Maryland:

- 1) IT IS NOT NECESSARY TO POSITION THE JUVENILE COURTS ON THE HIGHEST TRIAL COURT LEVEL;
- 2) IT IS NOT NECESSARY TO MAINTAIN A STATEWIDE UNIFORM COURT LEVEL;
- 3) IT IS NECESSARY TO FIND WAYS TO ACHIEVE A HIGH QUALITY OF JUSTICE, REGARDLESS OF COURT LEVEL.

(a) District Court Amendment

One of the first legislative proposals reviewed by the Commission was a bill to grant District Court jurisdiction over juvenile causes. At that time such jurisdiction was specifically limited to Montgomery County. The Commission endorsed SB 219 of 1976 to amend Article IV, §41A of the Maryland Constitution, and this bill was enacted as Chapter 544, 1976, and was approved by the voters of Maryland on November 2, 1976. Article IV, §41A now reads as follows: "The District Court shall have the original jurisdiction prescribed by law. Jurisdiction of the District Court shall be uniform throughout the State; however, the court may have such jurisdiction over juvenile causes as is provided by law."

One of the original reasons behind the Constitutional Amendment was to utilize District Court in the initial processing of certain juvenile matters such as emergency and detention hearings. Since District Court is often closer to the community and allows for speedy processing of cases, it is believed that the parties involved will suffer the least amount of inconvenience. A second early reason for the Commission's support of the Amendment was the potential for all juveniles to have their case heard by a judge of the District Court instead of appearing

before a master sitting in Circuit Court. With the passage of the Amendment, the Commission believes that the potential has also been created to develop innovative and improved ways to organize the juvenile court; however, careful planning will be needed to prevent a fragmented system. The Commission has developed the following set of guidelines for the Legislature's use in implementing this amendment.

(b) Guidelines for Court Jurisdiction

1. The juvenile court may exist within the District Court and/or the Circuit Court; a bi-level system may exist within one jurisdiction.
2. Waiver, adjudicatory and disposition hearings should be held in one central location in each county and Baltimore City.
3. There is a need to involve more judges in juvenile court; therefore, District Court judges may be used in Circuit Court and Circuit Court judges may be used in District Court.
4. Court records should be centralized within each county and Baltimore City.
5. All implementing legislation should address:
 - a) Use of judicial personnel
 - b) Administrative concerns:
 - i. Records and procedures
 - ii. Juvenile Court Clerk's Office
 - c) Co-ordination with agencies
 - i. State's Attorney
 - ii. Public Defender
 - iii. Juvenile Services Administration
 - d) Co-ordination between court levels, if bi-level plan.

3. Court Leadership

Independent of any other changes which may be effected as a result of the Commission's work, the Commission feels that a judicial administrator to co-ordinate and promote uniformity throughout the system is needed.

Presently there is no single person within the juvenile court system empowered to speak to the public and the Legislature on juvenile causes. Only the Chief Judge of the Court of Appeals and

the Judicial Conference can, with authority, express the state-wide concerns of the judiciary for juvenile justice. These officials are also involved with the entire court system. Special attention needs to be given juvenile court because of its distinct and specialized needs and philosophy. Additional leadership by an experienced juvenile court judge should thus be provided. The Commission recommends THAT THERE BE AN ADMINISTRATIVE JUDGE FOR JUVENILE CAUSES.

This judge would also assure that the law and Rules are uniformly interpreted and applied throughout the State. As the Commission reviewed the provisions of the code and other issues which were brought before it, the need for such an overseer was time and again illustrated. For example, in some counties children involved in non-delinquency adjudications are seldom if ever provided with counsel as required by Maryland Rule 906. While recognizing that available resources vary greatly and flexibility is desirable in each court's operation, procedural issues must be administered evenly statewide. The standard of justice accorded by the juvenile courts must be uniform. This is seen as a primary task for an administrative judge for juvenile causes.

The actual extent of the Administrative Judge's powers and duties will be defined by the Chief Judge of the Court of Appeals. Some additional functions for the Juvenile Administrative Judge proposed by the Commission include helping set conferences and educational programs for the juvenile judges; working closely with the Administrative Office of the Courts, with Circuit and District Administrative Judges, and with the juvenile court judges, to relay information and needs regarding the juvenile court.

The Commission also views this proposal as an answer to the question of how to coordinate a juvenile court system which exists on two levels. It will enable administrative uniformity regardless of whether a bi-level system exists. This leadership will also be invaluable during the interim of implementing changes which may result from the District Court Amendment and abolishing masters. (See Appendix C.1 for proposed legislation)

B. Judicial Personnel

1. Use of Masters

The Juvenile Masters System has been widely criticized on national and local levels. Most recently the Judicial Conference of Maryland called for its abolition in juvenile causes. The Maryland State and American Bar Associations, and the National Advisory Commission on Criminal Justice Standards and Goals, to name only a few organizations, have also urged an end to this practice.

More than any other factor, the use of masters in the juvenile courts is seen by the Commission as a major problem in the present system, according a lower level of justice and consideration to children in the State, and lessening the court's credibility and image.

The Masters System not only evidences a "second class" status for juvenile causes, but is extremely inefficient, causing delays and duplication of work. The Commission acknowledges that there are many fine masters who would make good judges, but the problem is that they are not judges. All recommended orders of a master must be reviewed and signed by a juvenile court judge. The judge is deprived of the personal appearance before him of the parties and

witnesses in making assessments as to the credibility of testimony. Additionally, the time constraints of heavy caseloads which justify the use of masters, also mean that the judge can usually give masters' reports no more than cursory reviews. So, without bearing legal responsibility for his decisions, the Master's recommended decisions become, in effect, final orders of the Court. This makes the right to except to the master's recommendation and hold a new hearing before a judge a needed safeguard, but one which is often an unnecessary duplication, wasting the time and money that the use of masters was intended to save, and raising the question of double jeopardy for the juvenile involved.

The Commission therefore resolved on June 15, 1976:

THE MASTER SYSTEM, AS PRESENTLY AUTHORIZED UNDER THE JUVENILE CODE, AND AS USED IN SOME OF THE COURTS THROUGHOUT THE STATE, SHOULD BE ABOLISHED. THIS SHOULD BE ACCOMPLISHED BY JULY 1, 1978."

Legislation to that effect has been drafted for the 1977 session of the General Assembly. (See Appendix C.2 for proposed legislation)

(a) Issues in abolishing the Masters System

The Commission recognizes the practical problems involved in implementing this proposal. One of those problems is the question of what will happen to the existing masters. It is possible that some masters will be appointed to judgeships. There are areas in the court system where personnel with the experience and training possessed by masters would be very useful. The court now has power to employ such persons and the Commission recommends that these valued people not be lost to the court system. The matter of pensions for masters needs also to be addressed by the appropriate agency so masters should not suffer any loss of benefits.

(b) Issues in replacing the masters

Another problem is the fiscal impact and political considerations of abolishing the present system. The District Court amendment now allows the Legislature flexibility in choosing the level for juvenile court jurisdiction in each of the subdivisions. There are presently 18 masters, 12 of whom serve full-time in juvenile causes. Their salaries and major support services are funded by the eight counties and Baltimore City who employ them. The Report of the Committee on Juvenile and Family Law and Procedure to the Judicial Conference (1976) estimated, from caseload projections into 1980, that 13 additional Circuit judges would be necessary to replace the masters (the Report estimated that a master is only 50-75% as effective as a judge). The cost to the State, including support services not picked up by the subdivision was estimated at \$691,900 per year, with a reduction in cost to the subdivisions of \$518,812, or approximately a 25% additional cost to provide full judicial coverage as opposed to the existing Master System (see p. 17 of the Report). In the Commission's view these additional costs will be justified by the increased status of juvenile justice which will result.

2. Use of Judges

The National Advisory Committee Task Force recommends that juvenile court judges "should be lawyers who possess a keen and demonstrated interest in the needs and problems of children and families". The standards also state that court assignments should be permanent and that the judges should participate in professional training programs.

All of these standards, when applied to juvenile court judges in Maryland, are now met. Maryland is one of two states to have statutory criteria for selecting juvenile judges. Judges are also not subject to automatic rotation, and pre-service and continuing educational programs are held. The criteria for selection appear general enough to only require a willingness on the part of the judge and a demonstrated temperament suitable to working with children. Most judges can meet these standards. This is in accordance with the need to select and maintain uniformly qualified judges for the entire trial bench, and the difficulty in empirically arriving at criteria for defining a "good" judge.

While the Commission understands the benefits gained from the continuity of not rotating juvenile court judges, it also sees a danger in allowing too few judges to participate in juvenile causes. When only a few judges participate in the juvenile courts over a period of time, that court becomes disassociated from the rest of the trial bench. Isolation can be harmful since it undermines the responsibility and involvement of the rest of the bench. There is also the danger of the sitting juvenile judge assuming too much independence, which undermines the uniformity and possibly the quality of the bench. Finally, juvenile justice is a dynamic process. The exchange of ideas is limited when only one or two judges in a circuit are involved with youths and input from new outlooks, methods and personalities is needed.

Increased use of judges who qualify to sit will improve not only the juvenile court, but the quality of the trial courts. Fifty percent of the crime rate is attributable to juveniles, and most adult defendants have juvenile records. Insights gained in juvenile

court provide additional understanding of adult defendants.

The Commission recommends that:

THE CHIEF JUDGE OF THE COURT OF APPEALS, THROUGH EXERCISE OF HIS AUTHORITY UNDER ARTICLE IV, §18a OF THE MARYLAND CONSTITUTION, SHOULD DESIGNATE JUDGES UNDER THE CRITERIA IN §3-804 OF THE JUVENILE CAUSES SUBTITLE FROM THE CIRCUIT AND DISTRICT COURTS TO SIT IN JUVENILE CAUSES TO THE GREATEST EXTENT POSSIBLE.

III.
JURISDICTION: DELINQUENCY AND NON-DELINQUENCY

The Commission proposes two major changes affecting the jurisdiction of the court over delinquent and non-delinquent children. In the former, the issue of original jurisdiction for all offenders under the age of 18 is viewed as the most efficient and effective approach to improving the juvenile justice system. In cases of Children in Need of Supervision and Children in Need of Assistance, an encompassing bill adds clarifying definitions, creates a coordinating council, and generally provides for improved services to CINA and CINS children consistent with national standards.

A. Delinquency

1. Original Jurisdiction and Waiver

The Commission reviewed several bills relating to juvenile court jurisdiction which failed in the 1976 session. The bills (HB 1193, 1507; SB 628, 1102) attempted to limit juvenile court jurisdiction by attaching specific age or offense restrictions, or requiring waiver for certain repeat offenders. Although legislation of this nature seems to be introduced with some regularity in the General Assembly, there has been no significant trend in the adoption of such restrictions.

(a) Comparison of national standards
with Maryland law

Standards and model codes suggest an upper age limit of 18 for juvenile court jurisdiction over any and all offenses, with potential to waive youths over 16 for specified offenses after a due process hearing.

In Maryland the greatest discrepancy with the national standards is that not all offenses committed by juveniles fall under original juvenile court jurisdiction. The crimes of first degree murder, first degree rape, and first degree sexual offense by children who have attained 14 years, and armed robbery by a child over 16 years fall under the jurisdiction of the adult criminal court.

(b) Problems with present system

Young persons are detained pending trial in jail with adults, and jail administrators and advocates for children agree that such detention is inadvisable. Lengthy delays, up to six months, can occur while awaiting trial in criminal court. At trial a motion is almost always made and often granted to have the child reverse waived to juvenile court pursuant to Code, Article 27 §594A. Those children reversed waived have spent a long and impressionable time in their life in an adult jail which may have been avoided if the juvenile court had had an opportunity to review the case initially to determine its appropriateness for juvenile court jurisdiction. Furthermore, when a youth is found guilty in criminal court, there is great reluctance on the part of most judges to sentence that child to an adult facility because of the physical danger which the child may face, the difficulty in an adult facility to program for a child, and the unlikelihood of rehabilitation taking place. Probation is often the result, whereas a juvenile court would have had available to it the resources of a training school or other residential treatment.

A final consideration is that criminal court often requests of the Juvenile Services Administration an investigation and report on juveniles who are awaiting sentence. These cases suggest that

juvenile court services are more appropriate than criminal court for certain youth since Probation and Parole staff are unfamiliar with developing treatment plans for juveniles. Should original jurisdiction of all offenders under the age of 18 become operative, each child would receive a waiver investigation by Juvenile Services Administration as required by Maryland Rule 913.

(c) Guidelines

The criteria to determine suitability for waiver to criminal court, §3-817, remains in effect to provide guidelines to the court. These include the age, mental and physical condition, amenability of the child to treatment, the nature of the offense and the public safety. The Appellate Courts of Maryland have often reviewed the application of these criteria to specific cases, and these precedents are valuable in assessing the issue of the propriety of waiver.

The Commission's position providing for original jurisdiction of all youths under the age of 18 will increase the effectiveness of juvenile court by allowing it to have discretionary power to consider individual needs and circumstances. Significantly, the criteria of §3-817 will be applied more uniformly by a juvenile judge who is experienced in determining waiver issues.

(d) Recommendation

Considering present problems, national trends, the legislative rejection of limiting juvenile court jurisdiction, and presently operating safeguards, the Commission adopted the following position and drafted corresponding legislation.

THERE SHALL BE ORIGINAL JURISDICTION IN JUVENILE COURT FOR ALL OFFENSES COMMITTED BY YOUTH UNDER 18 WITH POTENTIAL TO WAIVE ANY CHILD WITHOUT AGE RESTRICTION.

(See Appendix C.3 for proposed legislation)

2. Traffic and Boat Offenses

There is one exception to providing original juvenile court jurisdiction to all offenders under the age of 18, namely the State Motor Vehicle Laws and the State Boat Act. The standards prescribe such exceptions. Consistent with the standards, Maryland calls for juvenile court to hear those serious cases which could result in incarceration. All other offenses can be readily handled by the Motor Vehicle Administration or Traffic Court, since those under 18 who have obtained a license have the same responsibilities as adults and can best be processed by the adult system. The Commission also recommends that when juveniles are processed in the juvenile court that the Motor Vehicle Administration be notified so appropriate points for traffic offenders are properly issued. The Commission has introduced legislation to clarify cases in which juvenile court has original jurisdiction in traffic and boat offenses. (See Appendix C.3 for proposed legislation)

B. Child in Need of Assistance/Child in Need of Supervision

Possibly the most exhaustive work of the Commission on Juvenile Justice has been in regard to Children in Need of Assistance (CINA) and Children in Need of Supervision (CINS) matters. In its research the Commission found that Maryland's Juvenile Causes Subtitle, and the approach to CINA and CINS is not in line with the current recommendations of most national standard setting groups. In considering these matters, the Commission worked closely with the Developmental Disabilities Law Clinic of the University of Maryland School of Law.

The initial draft of legislation applied only to Children in Need of Assistance, but the Commission felt the espoused proposals

in many respects applied equally to Children in Need of Supervision. Specifically, in regard to both groups of youth, the revised legislative draft encourages the establishment of:

1. precise and well defined harms or behaviors;
2. "No fault" findings';
3. voluntary non-coercive intervention;
4. formalized proceedings only after all other remedies have been exhausted;
5. court intervention as a last resort;
6. expanded judicial jurisdiction beyond the child in order to include factors relating to the youth's environment, family, socio-economic conditions, social standards, responsibilities of agencies/institutions, etc.;
7. greater accountability for recommendations proposed and decisions rendered;
8. resorting to the least restrictive disposition, especially where the court determines that removal of a child from his or her home is necessary;
9. limitations upon places of confinement; and,
10. periodic review in regard to all formal dispositions.

A further breakdown of the legislation divides the proposed changes into five major categories which are discussed in detail below:

1. Definitions
2. Intake responsibilities
3. Interagency Councils
4. Guides for dispositional alternatives
5. Progress Reports

1. Definitions

(a) CINA

Presently the Maryland Code defines a Child in Need of Assistance as one who is mentally handicapped or not receiving ordinary or proper care and attention; and his parents, guardian, or custodian

are unable or unwilling to give proper care and attention. The proposed legislation uses clarifying language and requires a precise determination that the child is in need of the protective assistance of the court. The child must have suffered or be in danger of suffering harm as a result of parental misconduct or neglect. Specific harms including physical, psychological, or sexual injury, lack of food, clothing, shelter, education and medical care are enumerated in the definition and each harm must co-exist with the unwillingness of the parent to remedy the conditions causing the injury. These precise definitions eliminate subjective language and shift the focus from the parents' actions to the effect of those actions on the child.

The new definition does not utilize the term "mentally handicapped" as the present code does. The deletion allows court jurisdiction over mentally ill or mentally retarded children only when the child is being harmed and the parent is unwilling to help. Thus, a CINA who happens to be mentally handicapped is to be considered no differently than a CINA who happens to be physically handicapped. (A child who requires institutionalization solely because of mental illness or retardation and not as a victim of parental deprivation can receive assistance under procedures pursuant to Article 59 of the Maryland Code.)

(b) CINS

The definition of Child in Need of Supervision in the present Code remains essentially the same. Under Section 3-801(f) of the Juvenile Causes Subtitle, a deletion is proposed as indicated in the brackets:

"He is habitually disobediant, ungovernable, and beyond the control of the person having custody of him [without substantial fault on the part of that person]."

By removing the fault-finding clause, behavior exhibited by a Child in Need of Supervision can be more properly viewed as a family centered problem. (See Appendix C.8, §3-801(f) for proposed legislation)

2. Intake Responsibilities

The proposed legislation clearly outlines the approach which Intake Officers are to use in CINA and CINS matters. Intake must divert youth to community resources when the court has no jurisdiction, and to divert other youth when judicial action is not in the best interest of the public and the child. The legislation encourages use of voluntary non-coercive intervention, formalized proceedings only after all other remedies have been exhausted, and formal intervention as a last resort. This philosophy requires Intake Officers to determine whether voluntary services are a potential remedy, and if so, whether those resources have been fully exhausted prior to making a court referral. If a petition is filed an Intake Officer must prepare a statement indicating what efforts have already been made to alleviate the problem and why they failed. The Intake Officer may refer a case to the inter-agency council if mental illness or retardation are factors or if resources of more than one agency are needed.

Intake Officers are given authority to place certain children in secure custody.

Intake Officers can be assigned to the court from either the Juvenile Services Administration or the Social Services Administration.

3. Interagency Councils

The proposed legislation states:

§3-801(P) "INTERAGENCY COUNCIL" MEANS A PERMANENT BODY COMPOSED OF ONE OR MORE REPRESENTATIVES FROM AGENCIES THAT PROVIDE SUPPORT SERVICES TO CHILDREN IN THE GEOGRAPHIC AREA CONTERMINOUS WITH THE COURT'S JURISDICTION, INCLUDING:

- (1) THE COUNTY DEPARTMENT OF SOCIAL SERVICES;
- (2) THE JUVENILE SERVICES ADMINISTRATION;
- (3) THE MENTAL HYGIENE ADMINISTRATION;
- (4) THE MENTAL RETARDATION ADMINISTRATION;
- (5) THE DEPARTMENT OF EDUCATION;
- (6) THE COUNTY DEPARTMENT OF HEALTH;
- (7) THE DEPARTMENT OF VOCATIONAL REHABILITATION; AND
- (8) ANY OTHER AGENCIES DESIGNATED BY THE COURT.

The Commission perceives the Councils as providing diagnostic skills by combining the expertise of several agencies' personnel to recommend the most viable plan for a child whose treatment needs are unusually complex. It will encourage use of voluntary resources, minimize transfer of children from one agency to another, specifically allocate responsibility for carrying out a treatment plan, and avoid waste of agency resources caused by poor interagency co-ordination. It accomplishes these tasks by fulfilling its responsibility to study and evaluate the child's needs, and to prepare in writing a specific plan of care for the Court which shall call for the least restrictive course of services. The report must be filed with the court within a 30 day period after the Council has received the referral.

A judge presiding in each county will facilitate the operation of the council by asking agency heads to appoint an employee to the council. The judge specifies the time and place of the meetings and appoints a chairperson every six months. Each representative shall be authorized by his agency to delegate and assign its personnel to individual cases, subject to the agency's budget.

The councils are considered essential to achieve the necessary support services for CINA and CINS coming before the court. Without interagency co-operation Maryland's juvenile justice system cannot fulfill the intent of the concepts put forth in this proposed legislation. The Commission considers the councils as paramount for creating the most effective system possible.

4. Dispositional Alternatives

Just as the Interagency Council is directed to develop a treatment plan that is "the least restrictive course of services", so the courts are provided with guides to do the same. The alternatives in ascending order of restrictiveness are: returning the child home, referring the family for supportive services such as counseling, placing the child under protective supervision of the court while the child remains at home, placing the child with a relative, in foster care, or in a group home, or awarding custody to an appropriate agency for a specified program or treatment plan. Dispositions of institutionalization are limited. Training schools cannot be used for CINAs. Institutions for the mentally ill and mentally retarded can only be used when the child meets specified requirements.

Any disposition made by the court must be one where the intervention meets the need of the child and parent. If resources are inadequate or non-existent, then the intent of this legislation cannot be met. Intervention is therefore not justifiable. The Commission addresses itself to the Governor and General Assembly urging that adequate funds be appropriated for services to children who require the protective assistance of the court.

5. Progress Reports

The final section of the bill requires that the individual or agency to whom the child is committed file six month progress reports with the court. The intent of this section is to eliminate over-intervention. It will minimize long unnecessary placement in foster care and institutions and possibly avoid numerous moves from one foster home to another. It will assure that intervention is not detrimental and is, to the contrary, beneficial. The court must exercise its power to command the assistance and co-operation of agencies serving children and families and those agencies must have adequate resources to meet those demands.

6. Secure Custody

One additional term set forth in the proposed legislation deserves clarification. "Secure custody" basically means the placement of certain children in mental hospitals. The decision to do so can be made by an Intake Officer on an emergency basis subject to a court hearing the next court day. Under the present Code, in an emergency, CINA can only be placed in shelter care (private homes operated by the Juvenile Services Administration). Often an appropriate shelter care facility cannot be found to care for a mentally ill or retarded child who needs inpatient treatment, or one who is a danger to himself or others. Fortunately, such emergency placements occur only occasionally, but some alternative is necessary to assure that these children are not inappropriately held in detention or jail, when shelter care is not available. Instead the Intake Officer will be able to obtain for the child immediate shelter care under the supervision of experienced medical staff in a licensed hospital.

7. Summary

The Commission's proposed legislation which would effect CINS and CINA is in essence a redefinition of terms and a guideline for procedural change. Because of these proposed changes the present code is significantly strengthened. The broad-scoped, ill defined "best interests of the child" formula is abandoned as the criteria for court intervention, and, substituted in its stead, is a more particularized inquiry as to whether it is necessary for the Court to protect the child from a specific harm. Thus the general law is replaced by more explicit terms enabling a more even-handed application of the law in all jurisdictions of Maryland. The Commission is convinced that intervening in the life of a child and his family should only occur when benefits to them are likely to be realized. Necessary resources to implement these provisions must be supplied by the appropriation of adequate funds. The Governor and General Assembly are urged to meet the challenge.

(See Appendix C.4 for proposed legislation)

IV.
PROCEDURAL ISSUES

Within juvenile justice there is a delicate balance between protecting the best interests of the child and protecting the safety and related interests of the public.

The issue in protecting the public interest appears to revolve around the public interest in the pre-adjudication and disposition processes. Public concern is at its highest during the pre-adjudication process when a decision is made to formalize or informalize a complaint; and again following the adjudication process when the disposition decision is reached. The question for the citizen is how those decisions serve his interests and protect the public rights. The Commission proposes legislation which would specify the rights of the public and its appropriate involvement in the judicial proceedings.

The issue in providing certain legal protections to juveniles is centered in procedural due process. In Re Gault, which established the right of juveniles to counsel in delinquency proceedings, the right to be confronted by the witnesses against him and his privilege against self incrimination, was a forerunner to further considerations of the protections afforded by due process. In its proposed legislation, the Commission more clearly establishes the balance between keeping the judicial process informal enough to meet the special needs of juveniles and the need to guarantee formal rights to children similar to those provided in adult court.

The legislation being proposed by the Commission brings out the best measures in affording protection to the public interest

while firmly establishing provisions to protect the best interest of the juvenile.

A. Notification of Complainant

A focal point of public attention rests upon the Intake process, during which a decision is made to either divert a case from the court or to authorize the filing of a petition. Not only is the complainant's involvement at this decision-making point highly charged, but it is one of the few times of engagement between the public and the juvenile justice system.

The Maryland Code currently requires that the complainant be informed of the Intake Officer's decision on a case when an Intake Officer does not authorize the filing of a petition. The Commission proposes legislation which requires the Intake Officer to notify the complainant, if practicable, when the Intake Officer does authorize the filing of a petition. (The Code currently states that notification to the parties of the filing of a petition should be "preferably in person").

The Code further states that when authorization to file a petition is denied, the Intake Officer must inform the complainant that he has a right to appeal the decision within a 15 day period of the denial. The Code does not specify how that notification is to be made. The Commission's proposed legislation specifies that the notice should be a "personal notice to him, or mailing to his last known address." Because of this revision the complainant has a full 15 days from personal notice or a full 15 days from the postmark on the letter to request a review of the decision. The current law limits the appeal period to within 15 days "of the denial."

These changes afford the public improved communication of their rights and clarification of the process and procedures within the juvenile justice system. (See Appendix C.8, §3-810(b)(c)(h)(i))

B. Multiple Offenders

The Commission believes that not only should the complainant know and accept the rationale behind an Intake decision (A. above), but that the juvenile and his parents should also have such an understanding. In a delinquency complaint confusion on the part of children and their parents often results when several youths are involved in one offense, and an Intake decision is made to file a petition on some, but not all of the children alleged in the case. For rehabilitation to occur, it is very important that the youths, and their parents, whose support is needed, feel that all decisions are fair and equably made. Additionally, there are a few instances where the court subsequently discovers that a child for whom a petition was not filed ought to have been brought before the court.

Therefore, the Commission proposes that one child should not have his case closed by Intake while the other children involved in the alleged delinquent act are brought to court, unless the Intake Officer determines special circumstances, such as age or mental capacity. The judge will still address the individual acts and needs of each youth, and differentiate in his adjudication and disposition decisions. An increased understanding of the reasons for the different decisions will be gained, with positive results for those directly involved in the process. (See Appendix C.8, §3-810(J))

C. Right to Representation

1. Delinquency Proceedings

In Re Gault, 387 U.S. 1 (1967) firmly established the right of juvenile defendants to counsel in delinquency proceedings; and the Maryland Code, Juvenile Causes Subtitle, §3-821 provides that a child is entitled to the assistance of counsel at every stage of any proceeding.

The Commission is of the opinion that the provisions of the Maryland Rules best protect the interest of the child by requiring that, if after the filing of a petition a child or his/her parent indicates a desire to waive representation the court must conduct an inquiry to determine that the child is waiving the right to counsel competently, voluntarily, and with full understanding of the consequences. In practice this has been interpreted to mean that a child would only on very rare occasions be able to waive the right to counsel. The Commission recommends that this interpretation should be applied consistently across the State.

2. Non-delinquency Proceedings

When a child is unable to rationally determine his/her own interests in the judicial proceedings, or as in cases of the endangered child, the child's parents are the adversaries, legal representation is required to protect the child's best interests. The national standards and model codes reviewed recommend that a child should have representation in any case in which his/her liberty, custody, or status may be affected by delinquency, endangered child, child custody, termination of parental rights, civil commitment proceedings or "families in need of assistance".

Maryland Rule 906 addresses this issue, but in the matter of application some variance exists in the State's courts in non-delinquency proceedings. Rather than propose legislation to mandate a standard of application the Commission recommends that a function of the proposed Administrative Judge will be to direct the consistent application of that Rule in the juvenile courts.

D. Certain Information Inadmissible in Subsequent Proceedings

The issues involved in protecting the rights of the child with regard to the admissibility of study reports and information into the judicial proceedings are:

1. At which points may certain reports and information be introduced to the proceedings?
2. As a part of any study, may a child or parent be examined by professionally qualified persons such as a physician or psychiatrist?
3. Shall both parties have the right to challenge reports to be introduced to the court?

The purpose of the amendments proposed by the Commission to §3-811(b) and (d) is to further define the points at which reports and expert testimony may be introduced into the judicial proceedings. Specifically the amendment to §3-811(b) further protects the best interest of the child by prohibiting the admission of information secured in a preliminary investigation except on the issue of whether or not a respondent in a delinquency case is competent to participate in the proceedings and whether he/she can be held legally responsible for his/her acts.

The proposed §3-811(d) is a new section. The purpose of the section is to prevent the admission of statements made at a waiver hearing as evidence in an adjudicatory hearing except in the case of alleged perjury.

Therefore, with regard to previously stated issues, the proposed amendments clarify the points at which reports and studies may be introduced to the proceeding and further protect the best interests of the child. The subject matter which may be included is already defined in the Code. §3-818 provides that as a part of the court directed study, a child or parent may be examined by a professionally qualified person. And lastly, in compliance with the Supreme Court's ruling, the child and his counsel do have access to the social report and to other findings. (See Appendix C.8, §3-811(b) and §3-811(D) for proposed legislation)

E. Parental Responsibility

1. Liability for Damages

In considering how to best protect the public interest, the Commission addressed the issue of reparation to the victims of juvenile crime.

Section 3-829 of the juvenile causes subtitle provides that the court may enter a judgment of restitution to the wronged person against the parent of the child who is before the court. The section also provides an absolute limit to the amount of restitution which may be ordered.

The Commission proposes legislation to provide an alternative compensation through the civil court. The legislation would allow victims of assault or property damages to maintain a civil action in a court of competent jurisdiction against parents to recover damages up to \$1,000 for malicious assault or wilful property damage by a child under 18 years of age. This legislation would improve upon present provisions by not requiring that the issue of

delinquency be inter-related to any judgment of restitution in the civil proceedings, and would be available to the victim even if the Intake Officer concluded that no petition alleging delinquency should be filed with the court. An additional compensatory measure is the absence of an absolute limit against any one child or his parents for all acts arising out of a single incident.

In considering the best interests of the child, the juvenile court would continue its authority to record a judgment of restitution as a rehabilitative rather than punitive measure, according to the provisions of §3-829. (See Appendix C.6 for proposed legislation)

2. Participation in Rehabilitation

Under Section 3-820 the current code broadly gives the court authority to make a disposition best suited to the child and in the public interest. The interpretation of the court's authority has not been consistent throughout the State, especially regarding its authority over parents. The Commission has proposed legislation with clarifying language which gives the court specific authority to order parents to participate in counseling or other rehabilitative services when in the best interest of the child and family.

(See Appendix C.8, §3-820(b)(3) for proposed legislation)

V. DETENTION

The question of detention of children arose numerous times at Commission meetings. The Commission addressed the issues of who could be detained, where, and for what period of time and for what reasons.

A. Detention in Adult Facilities

Recent history shows that two major events have occurred in Maryland which makes this topic a prime issue: legislation to permit the use of jails for detention, and new alternatives to traditional detention.

1. Chapter 526 of the Acts of 1976

In the 1976 Legislative session an emergency bill (HB 1969) was enacted as Chapter 526. The law permits the detention of alleged delinquents in jail until January 1, 1978. The Commission sees the new law as contradictory to the purposes of the code which specifically states that treatment should be provided consistent with the best interest of the child, that children should be removed from the taint of criminality and the consequences of criminal behavior, and that custody and discipline should be as equivalent as possible to that which would have been given by his parents. The fact is that prior to legislative action many counties, usually in rural areas, were housing youth in jails or sections of jails set aside for juveniles. During FY 1975, Juvenile Services statistics report that 964 children were detained in jail. The number becomes more staggering for rural counties since the figure of 964 occurred despite the fact that no juveniles

were detained in jails in the four largest counties (Baltimore, Howard, Montgomery and Prince George's) or in Baltimore City. Another fact disturbing to the Commission is that 155 of the 964 children were not alleged delinquents, but were alleged to be in need of supervision. The FY 1976 figures for detention in jails rose to 1192 children with 155 of them being CINS. It does not appear that the legislation effective on May 5, 1976 caused the increase, but the Commission believes that the new law condones the practice which is totally adverse to the spirit of the code. The Commission thus proposes emergency legislation which would repeal the new law and forbid detention of juveniles in jails. (See Appendix C.5 for proposed emergency legislation)

2. Alternatives to Traditional Detention Approaches

The Commission's reaction to Chapter 526 is in large part influenced by the extensive planning of alternatives to constructing new detention facilities. Both the cost factor and the time delays involved in construction led Juvenile Services Administration to their most recent plans for detention. These plans will improve the present system and end the need to jail children.

(a) Maryland Children's Center

The first plan involves the Maryland Children's Center (MCC), a diagnostic facility which has been under-utilized for two years. The 112 bed secure facility can only be used for detention purposes if legislative approval is obtained. The Waxter Center in Laurel, a 40 bed facility could provide the State additional diagnostic services. The Commission supports Juvenile Services Administration plans to open Maryland Children's Center for limited detention

purposes without restricting present diagnostic capabilities, and has submitted legislation to accomplish this goal. (See Appendix C.8, Article 52, §12 for proposed legislation)

(b) Alfred J. Noyes Center

Over the past years, regional detention centers have been proposed as a solution to the problem. Since 1969 money has been appropriated for a center in Montgomery County which will also serve the western counties. The Alfred J. Noyes Center is scheduled to open in March, 1977.

(c) Regional Detention Facilities

Plans are underway by both the legislative and executive branches of government regarding the possible establishment of regional detention centers. It appears doubtful whether any facilities can be constructed by January 1, 1978, which is the deadline for last session's Emergency Bill, Chapter 526.

(d) Holdover Facilities

The Regional Detention Center alleviates the distance problem somewhat, but still it is a long trip from Cumberland to Rockville for overnight detention. Juvenile Services Administration has introduced the concept of small (6 bed) "Holdover Facilities" which are designed for detention not to exceed 48 hours. The Commission supports this concept and proposes legislation to establish holdover facilities. (See Appendix C.8, Article 52A, §12(D) for proposed legislation)

Structured Shelter Care

Juvenile Services Administration is developing structured shelter care which would provide a high degree of supervision

to "detained" youth, yet structured shelter care would be more likely to receive community support and be more easily established in every county in the State at a lower cost than detention centers or holdover facilities.

(f) Home Detention

Juvenile Services Administration has in operation in Baltimore City and Prince George's County a Home Detention Program whereby a youth who is in need of detention is released to his parents or surrogate parent (shelter care) under close supervision of a home detention officer whose purpose is to keep the child trouble free and assure his appearance in court. The program has been highly successful in fulfilling its goals. Plans are underway for expansion.

(g) Transportation System

The various options available in lieu of detention in jail seem reasonable to the Commission. Additionally, the Juvenile Services Administration has been successful in obtaining LEAA funds (\$86,000) to immediately operate a transportation system for the Upper and Lower Shore where the major problem exists. Children will be transported to the Baltimore Metropolitan area and held in approved juvenile facilities. The pilot program should be closely scrutinized to determine the advisability of instituting a transportation system state-wide, not as a response to a crisis situation but as the most economic and practical method of providing detention services to juveniles in Maryland.

3. Commission Recommendation

The Commission supports the transportation plan, and the other alternative plans for detention. It encourages continued efforts toward development of regional detention centers unless experience demonstrates their impracticality or that they are unnecessary. Therefore,

CHAPTER 526 OF THE ACTS OF 1976 (HB 1969), ALLOWING DETENTION OF JUVENILES IN ADULT FACILITIES UNTIL JANUARY 1, 1978, SHOULD BE REPEALED BY EMERGENCY LEGISLATION PROHIBITING SUCH DETENTION PRACTICE.

(See Appendix C.5 for proposed legislation)

B. Length of Detention Period

1. Length of Emergency Detention Prior to a Court Hearing

The newly adopted Rules limit the period of time in which a juvenile can remain in emergency detention pending a court hearing. Maryland Rule 912 a.3 states that the time cannot exceed eight days. The Commission makes no recommendation for legislative action since the Rules clearly specify the procedure. The practice does not comply with the national standards which require a twenty-four hour hearing excluding Sundays and Holidays.

2. Detention Period Prior to a Waiver Hearing

The Commission determined a limitation of the number of days in which a child can be held in detention. Presently, the law permits a thirty day detention period prior to an adjudicatory hearing. The maximum period of time awaiting a waiver hearing has never been indicated in the code. Some juveniles have been detained for months awaiting a waiver hearing. To correct this abuse, the Commission recommends a limit of thirty days detention prior to a waiver hearing. (See Appendix C.8, §3-815(c) for proposed legislation)

D. Detention of Persons under 18 on Traffic Offenses

Juveniles who do not fall under juvenile court jurisdiction because of certain offenses under motor vehicle and boat violations can be taken into custody on a bench warrant if he/she fails to appear for a hearing in adult traffic court. The Commission recommends that those youth be detained in juvenile facilities or placed in shelter care. (See Appendix C.8, §3-804(F) for proposed legislation)

VI.
PROGRAMS AND SERVICES

To guide the development, operation, and evaluation of programs and services, the Commission has developed the following standards. The standards are consistent with the National Advisory Commission on Criminal Justice and Delinquency Prevention Task Force standards.

Action in the area of resource development should not proceed upon whim but upon the informed use of existing data or the further generation and interpretation of data.

A single theory or program model should not be imposed upon every locality. Rather, the strategy for each community should fit the demographic, cultural, and governmental uniqueness of the area.

Efforts to prevent, divert, and rehabilitate children should maximize citizen involvement.

Child welfare services require the participation of a broad range of agencies and institutions and levels of government. A system for the coordination of and comprehensive planning for children's services should be implemented.

Building on this set of principles, the Commission proposes a series of resolutions to advance the program and service delivery system.

A. Resolutions

1. Coordination of Children's Services

The need for coordination of children's services has been identified as a very critical problem in the provisions of programs and services. The issues with the problem of coordination are:

1. The responsibility for the provision of services is fragmented along agency, institution or levels of government lines across the State and within regions, resulting in service overlaps and gaps.
2. Agencies and government administrations maintain individual administrative policies and procedures which results in the lack

of comprehensive planning for children's services.

3. Service providers maintain distinct and categorical service definitions which are frequently rigid and arbitrary. As a result it is difficult to match needs with resources, especially in cases of the multi-need child.

4. Agencies, institutions, and units of government compete for limited financial resources and are further discouraged from cooperative efforts by budgetary regulations.

The Commission has adopted the following resolution:

RESOLVED: THAT THE JUVENILE SERVICES ADMINISTRATION BE REMOVED FROM THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WHICH FOCUSES PRIMARILY ON HEALTH SERVICES. THE COMMISSION RECOMMENDS THAT JUVENILE SERVICES ADMINISTRATION BECOME A SEPARATE AGENCY RESPONSIBLE DIRECTLY TO THE GOVERNOR WHICH WOULD PROVIDE COMPREHENSIVE SERVICES TO CHILDREN WHO COME WITHIN THE JURISDICTION OF THE JUVENILE COURT.

2. CINS--Institutionalization

(a) Federal Laws

The Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, §223(12) stipulates that in order for a state to receive formula grants the state shall "provide" within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but shall be placed in shelter facilities."

A state whose code is not in agreement with Public Law 93-415 §223(12) but which in practice, does not place Children in Need of Supervision in juvenile detention or correctional facilities, shall be eligible to receive federal monies.

(b) Maryland Code

The Juvenile Causes Subtitle is not in compliance with the

regulations established by the Juvenile Justice and Delinquency Prevention Act of 1974. Though Maryland does not comply by law, it does in practice and is still eligible to receive monies under this Act.

(c) Commission Position

The legality of institutionalizing Children in Need of Supervision under the present code has been agreed upon by the Commission.

The Commission is of the opinion that Juvenile Services Administration resources should not be limited by changes of the code which would mandate that CINS and alleged CINS shall not be placed in training schools or any similar institution (e.g., the Attorney General has ruled that a forestry camp is a "similar institution") during a time when the development of other CINS facilities is uncertain.

RESOLVED: THAT THE DEVELOPMENT OF PROGRAMS FOR THE PURPOSE OF INSTITUTIONALIZING CINS IS OPPOSED BY THE COMMISSION.

3. Mental Health: Care and Treatment

In keeping with the philosophy underlying the Juvenile Causes subtitle, the Commission is of the opinion that children have special treatment needs which are unique from the needs of adult patients. Among these are the need for special understanding of the child development process; the educational needs of children; and the special aftercare needs of the child.

RESOLVED: THAT ANY CHILD UNDER 18 YEARS OF AGE ADMITTED, COMMITTED, OR TRANSFERRED TO A (MENTAL HEALTH) FACILITY SHALL BE HOUSED AND TREATED SEPARATELY FROM ADULT PATIENTS UNLESS THE COURT RULES THAT A PROGRAM OF CARE AND TREATMENT WITH ADULT PATIENTS WOULD BE IN THE BEST INTEREST OF THE CHILD.

4. Mental Health: Aftercare

The Mental Health Administration lacks aftercare services to provide support when a child returns to the community following residential treatment. Lack of development of community programs and purchase of care often results in the Juvenile Services Administration carrying out the responsibility for aftercare services.

RESOLVED: THAT FUNDS ARE NEEDED TO DEVELOP AFTERCARE PROGRAMS FOR CHILDREN RETURNING TO THE COMMUNITY FOLLOWING RESIDENTIAL TREATMENT AND THAT THESE FUNDS BE APPROPRIATED TO THE MENTAL HEALTH ADMINISTRATION.

5. Juvenile Services Evaluation

The Commission concluded that an annual evaluation of children's programs to evaluate goals and measure effectiveness would benefit the delivery of services. The service delivery structure is complex and the program network diverse; thus the evaluation research would necessitate the development of an evaluation design.

RESOLVED: THAT AN EVALUATION OF CHILDREN'S PROGRAMS OPERATED BY JUVENILE SERVICES ADMINISTRATION SHOULD BE CONDUCTED; AND THAT ADEQUATE FUNDS BE PROVIDED FOR THE DEVELOPMENT OF THE EVALUATIVE DESIGN.

6. Alternatives to Juvenile Counselor positions

The Commission studied budget requests by Juvenile Services Administration for Juvenile Counselor positions for FY 1978 through FY 1982, which would achieve a 28-1 ratio of counselor to client by adding 97 positions at a cost of \$816,500 over a five year period. Historically, requests are frequently not granted because of financial restraints. In order to improve length of supervision, depth of service and improved caseload management, the Commission recommends study of the use of paraprofessionals, volunteers, and differential

caseloads which would permit more efficient use of funds.

RESOLVED: THAT JUVENILE SERVICES ADMINISTRATION UNDERTAKE A STUDY OF TASKS PERFORMED BY JUVENILE COUNSELORS TO DETERMINE IF MORE EFFICIENT SERVICES CAN BE RENDERED THROUGH INNOVATIVE TECHNIQUES SUCH AS PARA-PROFESSIONALS, VOLUNTEERS AND DIFFERENTIAL CASELOADS.

7. Out-of-State Purchase of Care

One example of the need for co-ordination of children's services is the pattern of out-of-state purchase of care. The Commission reviewed statistics from Juvenile Services Administration, Mental Health Administration, Mental Retardation Administration, the Department of Education and Social Services Administration. The Social Services Administration, for example, utilizes 50 different centers in 13 states. Most placements are in the Virginia, D.C. Pennsylvania and New Jersey areas, but a few youths are placed as far as Florida or Idaho.

The following chart reflects an average monthly placement of children and rate of cost to the agency, based on March 31, 1976 data.

AGENCY	NUMBER OF CHILDREN	COST PER MONTH
JSA	111	\$61,125
SSA	197	\$125,050.
MHA	0	0*
MRA	24	\$5,519
Dept. of Ed.	664	\$3,000,000.*yearly

*HB 291 in the '76 General Assembly requested funds to purchase care in or out-of-state. It failed in Committee. The estimated size of the target population is between 400 and 600 emotionally disturbed children.

The practice of out-of-state placement has reached such proportions due to lack of resources in Maryland. Special educational services in a residential setting is usually what is sought when turning to resources out-of-state. The needs of both physically and emotionally handicapped children are not being adequately met by

facilities in Maryland.

Although the Commission views extensive use of out-of-state purchase of care as undesirable, it recognizes that this trend will continue until adequate resources are developed in Maryland.

The Commission has adopted the following:

RESOLVED: THAT THE MENTAL HEALTH ADMINISTRATION, THE MENTAL RETARDATION ADMINISTRATION, AND THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF EDUCATION, AND THE JUVENILE SERVICES ADMINISTRATION COORDINATE EFFORTS TO PROVIDE IN-STATE SERVICES TO CHILDREN; AND THAT IT IS NOT DESIRABLE TO PLACE CHILDREN IN OUT-OF-STATE CARE.

8. Parent's Financial Responsibility for Services Rendered

Under §3-830 of the juvenile causes subtitle, the court can order parents to pay for all or part of services rendered to their child or for placement in facilities in or out-of-state. The Division of Reimbursements under the Department of Health and Mental Hygiene has provisions and procedures for assessing and collecting money for support for all agencies within the Department of Health and Mental Hygiene. Historically Juvenile Services Administration has not utilized the services of the Division of Reimbursements but instead has made some collections on a county-by-county basis without applying State standards. In order to make better use of this resource, the Commission adopted the following position:

RESOLVED: THAT THE DIVISION OF REIMBURSEMENT OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE ACTIVELY ENFORCE §3-830, PARENTS LIABLE FOR SUPPORT AFTER COMMITMENT OF THE JUVENILE CAUSES SUBTITLE.

9. Community Arbitration Program

The Commission studied the Community Arbitration Program operating in Anne Arundel County. Its purpose is to process minor juvenile offenses in a pre-court setting. As the program presently operates, at the time of arrest, police officers issue a citation to the child which indicates the offense, and schedules a voluntary

appearance before an arbitrator. The child's parent and the victim also receive a copy. A "hearing" is held within ten days of the offense. Often voluntary restitution is arranged, or a child is instructed to volunteer his services to a community project. Staff follow-up assures that the task is completed.

RESOLVED: SINCE COMMUNITY ARBITRATION IS AN INTAKE FUNCTION, NO LEGISLATION IS NECESSARY FOR ITS EXPANSION TO OTHER JURISDICTIONS. FUNDS FOR STAFF WHO FOLLOW-UP TO ASSURE THE ARBITRATOR'S DECISION IS CARRIED OUT ARE ESSENTIAL TO THE PROGRAM'S EFFECTIVENESS.

10. Maximum Security Facility

In reviewing issues surrounding the construction of a maximum security facility, the Commission adopted a position opposing its construction. The decision is based on several factors including cost/effectiveness, capability of developing alternative programs, and the potential to renovate and make secure existing training schools.

The Commission believes that certain programs operated by the Juvenile Services Administration have proven successful. Forestry Camps, for example, have been praised by the community, Legislature, and judges. The Commission recommends expansion of successful programs rather than embarking on a new and expensive institutional approach of rehabilitating juveniles. Therefore the Commission:

RESOLVED: THAT SOME OR ALL OF THE CAPITAL FUNDS APPROPRIATED AS A GENERAL CONSTRUCTION LOAN PROJECT AND APPROVED IN THE STATE BUDGET BY THE 1975 SESSION OF THE GENERAL ASSEMBLY AND EARMARKED FOR THE CONSTRUCTION OF A MAXIMUM SECURITY FACILITY BE REDIRECTED TO FUND THE COST OF ALTERNATIVE PROGRAMS TO BE OPERATED BY THE JUVENILE SERVICES ADMINISTRATION WHICH WILL PROVIDE APPROXIMATELY 100 BEDS THROUGH:

- 1) AN ADDITIONAL NETWORK OF FORESTRY CAMPS;
- 2) SPECIALIZED COMMUNITY RESIDENCES; AND
- 3) RENOVATION OF EXISTING JUVENILE FACILITIES TO PROVIDE FOR MORE SECURE SUPERVISION AND TREATMENT OF SERIOUS DELINQUENT OFFENDERS.

11. Prevention

The Commission has consistently emphasized the importance of prevention, and has been clear in its opinion that prevention is directly tied to the school since a) the school is a significant force in childhood development; b) social behavior problems are often first identifiable within the school. Special attention was given to the need for diagnosis and treatment of learning disabilities.

RESOLVED: THAT PREVENTION SHALL BE THE PRIORITY IN DEVELOPING SERVICES FOR CHILDREN AND YOUTH OF MARYLAND; THAT THE SCHOOL SYSTEM PLAYS AN INTEGRAL ROLE IN PREVENTION; AND THAT AS A PART OF PREVENTION FUNDS BE APPROPRIATED FOR THE DIAGNOSIS AND TREATMENT OF LEARNING DISABILITIES.

B. Legislation

Most of the preceding Resolutions require no legislative action; they may be handled administratively. Others require further study before any change can be accomplished. The Commission has extracted one bill from the Resolutions for the 1977 Legislative Session: Mental Health: Care and Treatment--children should be housed and treated separately from adults in mental health facilities. (See Chapter VI.A.3 for Resolution and discussion; Appendix C for bill.)

Other bills which are discussed elsewhere in the Report, but which evolved from an examination of program and service needs are:

Detention legislation and recommendations (See Chapter V.).

Notification of complainant of Intake's decision (See Chapter IV.A.)

Components of the Child in Need of Assistance bill (See Chapter III.)

VII. CONCLUSION

The Commission on Juvenile Justice was mandated to review and evaluate existing law, programs, and services relating to the juvenile justice system in Maryland; and to make such recommendations to the Governor and to the General Assembly as it deems proper. In pursuit of this task the Commission has recommended changes in the code only after reviewing Supreme Court and lower federal court decisions, Maryland cases, recommendations set forth by nationally recognized model codes and standards setting groups, and the most current and authoritative literature in the field. The Commission found Maryland's Statute to be largely in line with recommended direction and procedures.

An excellent code is a beginning step to an effective juvenile justice system. Full implementation of the intent of the law requires the participation of a broad range of agencies, institutions and levels of government. The Commission is committed to setting standards of program delivery which reflect the State's concern for the welfare of its children; and has established a guide for development and implementation of services.

Finally, the Commission believes that the ultimate success of the juvenile justice system depends upon the interest and dedication of the public. Citizen participation is essential in developing and upholding standards of juvenile justice. Maintaining an excellent system is not solely dependent on a small group of persons, such as those who comprise this Commission, and on "specialists" in the field of juvenile justice. Ultimately a

a dynamic and effective system is based on numerous individuals in the community using their imaginative leadership to change a good operating system into a better one. Though the issues surrounding delinquency and children in need are not new, innovative solutions to those problems are forever evolving. The search for better answers can come only with citizen involvement. As the Commission submits its Final Report, it urges the citizens of Maryland to demand of their government the highest level of justice and services for the youth of the State. The Commission is confident that existing groups will continue to speak out for juvenile justice and that the goals of the Commission will be fostered through the commitment of the Maryland citizenry.

MINORITY REPORT

The Commission on Juvenile Justice has voted to support the following positions:

1. It is not necessary to position the Juvenile Court on the highest trial court level.
2. It is not necessary to maintain a State-wide uniform court level.

It is our contention that these positions pose some potentially serious problems to the development of an effective, coordinated system of juvenile justice in the State of Maryland. We do, therefore, dissent to these positions.

Level of Juvenile Court Jurisdiction

Several standard-setting groups in recent years have dealt with the issue of determining at what level courts with juvenile jurisdiction should be placed. These groups, which include the National Council on Crime and Delinquency, the National Advisory Commission on Criminal Justice Standards and Goals; the Department of Health, Education and Welfare; the Maryland Governor's Commission on Law Enforcement and the Administration of Justice; and the Institute for Judicial Administration/American Bar Association have, without exception, agreed that juvenile courts should be placed at the highest trial court level.

There are several reasons that the standard-setting groups have cited in support of placing the Juvenile Court at the highest trial court level. First, is that placement of the court at this level increases the likelihood of a quality court and emphasizes to the public that the Juvenile Court is an important part of the judicial system. Additionally, better ability to attract and retain judges, higher salaries, increased prestige and better facilities usually exist at this level. Moreover, credibility is increased since appeals go directly to the appellate court. These are all important considerations which, although noted by the Commission majority, appear not to have been properly weighed in reaching conclusions.

Another persuasive reason for maintaining juvenile court jurisdiction at the Circuit Court level is the possibility of developing an effective family court division at the circuit level. Many standard-setting groups have recognized the desirability of establishing a family court system that would have jurisdiction over delinquency, status offenses, divorce, child custody, support, and other domestic and child related matters. Additionally, interest in the family court concept in Maryland appears high among some members of the Legislature, the Administrative Office of the Courts, the Juvenile Services Administration, and others. In fact, the Governor's Commission on Law Enforcement, with the support of the Administrative Office of the Courts and local Prince George's County officials, has tentatively set aside \$80,000 for a pilot family court in Prince George's County. Such courts, given the supporting services that they require, are able to deal with the totality of a

family's problems in a comprehensive manner rather than fragmenting responsibility for various aspects of family life to different court levels. At the present time, establishment of a family court could be achieved simply and expeditiously as jurisdiction for most family related matters already rests with the circuit courts. If juvenile jurisdiction is extended to the District Court, the establishment of a family court becomes virtually impossible, unless, of course, jurisdiction over family related matters is transferred to the District Court level. The latter option is not feasible for a number of logistical and administrative reasons which will be discussed later in this report. Moreover, the resulting volume at the District Court level could be overwhelming. In sum, the placement of juvenile causes jurisdiction at the District Court effectively precludes the possibility of developing an effective family court system in the State.

The Commission on Juvenile Justice majority takes the position of rejecting a family court arrangement primarily, it seems, because setting up such a system would require "detailed planning, increased resources, and public and fiscal support." We agree that all are needed, however, these concerns do not appear so overwhelming as to necessitate a rejection of the family court concept. We would also point out that the Commission majority is inconsistently recommending a change (i.e., the transfer of juvenile court jurisdiction) which is at least as significant a change as implementing a family court. We contend that the planning and implementation of a family court at the circuit court level poses fewer administrative, logistical, and financial problems than does the Commission's proposal for a transfer of juvenile jurisdiction.

Another issue that requires careful review relates to the additional resources that might be required at the District Court level should juvenile causes jurisdiction be extended to other counties in the State. According to the Administrative Office of the Courts (using fiscal 1975 data) we find a caseload of over 13,000 cases per judge in the District Court in Baltimore City; about 20,000 per judge in Prince George's County; 11,000 per judge in Baltimore County; and 9,000 per judge in Anne Arundel County. Should juvenile court jurisdiction be extended to the District Court, the Baltimore City District Court would, for example, have had to absorb approximately 11,000 juvenile filings handled in fiscal 1975 by the Supreme Bench. Likewise, District Courts in Baltimore, Prince George's and Anne Arundel Counties would have had to handle 1,742; 4,735; and 1,437 juvenile filings respectively in fiscal 1975. Experience in Montgomery County has demonstrated that a full-time juvenile judge handles approximately 900 filings a year. Obviously, juvenile court matters require careful individual, and at times, lengthy consideration by judges. If jurisdiction is extended to the District Court, substantial increases in District Court resources, which would include judges and supporting staff, would be required. For instance, one District Court official in Baltimore City estimates that if minor traffic cases were removed from the jurisdiction of the court, two and a half judges could be allocated to other work, but if juvenile jurisdiction were transferred to the court, five additional judges would be required. Similar increases in judges would also be required elsewhere. With respect to support staff, it is also important to note it would be difficult financially and administratively to transfer local Circuit Court employees to the State District Court system, should juvenile court jurisdiction be removed from the former and vested in the latter. In sum, the logistical problems inherent in a transfer of juvenile court jurisdiction are substantial and require careful and detailed analysis and planning before any action is taken.

While on the subject of volume, it is important to reflect for a moment as to the desirability of essentially high volume courts (the District Court) handling difficult and often quite serious juvenile matters which require considerable time and attention. While we do not intend to downgrade the District Court in any way, it is a fact that District Court judges (with the exception of the sitting Montgomery County juvenile judges) are required to handle many relatively minor cases quickly. This may not be the best preparation and experience for a judge that is to handle juvenile matters.

Another issue with respect to volume at the District Court level is that, should juvenile jurisdiction be transferred, District Court judges in rural jurisdictions, such as Kent, Queen Anne's, Talbot, and Caroline Counties, would most likely have to spend all their time in their own counties due to their juvenile caseload and would be unavailable for transfer, as they presently are, to busier jurisdictions in the State. Consequently, additional judges would be required in the busier jurisdictions.

Another point that should be noted is that the majority's support of District Court juvenile jurisdiction does not preclude the possibility of establishing juvenile courts at more than one of the present District Court locations in the larger jurisdictions. For instance, in Baltimore County or Prince George's County, juvenile matters could be scheduled at several different District Court locations within the county. Such an arrangement would pose serious coordination problems for those agencies that work with the Court, such as the Juvenile Services Administration, the State's Attorney's Office, the Public Defender, the local police departments, and the District Court Clerk's office itself. These problems would not occur if jurisdiction remained within the Circuit Court, which is located at only one site in every county.

Another more basic question that has to be asked with respect to this issue is: Would a change in juvenile jurisdiction from the Circuit to District Court level benefit the youth, and families entering the juvenile justice system and the public at large? We cannot foresee any significant benefits that would accrue and can, as we have pointed out foresee numerous problems, including impeding the development of a much needed family court system which most likely would never occur if juvenile jurisdiction is transferred to the District Court level.

Desirability of a State-Wide Uniform--Juvenile Court Jurisdiction

The Commission on Juvenile Justice majority contends that State-wide uniform court jurisdiction is not necessary. This position does not appear to be adequately supported, and should it be accepted, poses a serious threat to the administration of juvenile justice in this State.

Recent Maryland court history itself provides one of the strongest and most persuasive arguments for development of a uniform State system. Prior to the development of the State-Wide District Court System, Maryland's "lower" courts were an incredible array of varying jurisdictions that existed from county-to-county under the old trial magistrate system. This non-system was characterized by inefficiency, and at times, the appearance of unfairness due to the differences in jurisdiction that existed from county-to-county. This non-system defied effective administration. The District Court, which provided uniformity to the lower courts of the State was, of course, the ultimate solution to this problem. Creation of

the "bi-level system" of fragmented juvenile court jurisdiction supported by the Commission could give rise to the same types of problems encountered in this State prior to the development of the District Court system.

Furthermore, if juvenile jurisdiction is allocated to the District Court in a few jurisdictions, an alarming precedent could be set. The next step could be shifting other segments of court jurisdiction to either the Circuit or District Court based on some unique and transitory condition such as the capability of a particular judge.

The end result could be a "non-system" that would once again be akin to what existed in the lower courts prior to the establishment of the District Court System. In sum, piecemeal transfer of juvenile jurisdiction to the District Court is going to be a step backwards for the juvenile justice system in the State.

The desirability of uniform court jurisdiction has been espoused by prominent individuals, scholars, organizations and standard-setting groups for years. Uniform jurisdiction promotes even-handed and fair administration of justice, and much simplifies the task of judicial administration. It also aids the public, the bar, and agencies required to deal with the court, since they need not review the whole jurisdictional arrangements in each county. It is also extremely helpful when operating training programs for judges and court-supporting staff. Implementation of administrative, legal, or procedural changes that are required periodically is simplified in a uniform court system. The American Bar Association in their Standards on Court Organization has noted that:

"The establishment of uniform jurisdiction, in addition to its inherent value, is an indispensable condition for establishing effective administrative direction over a court system. Unless the various courts at a given level have identical jurisdiction, it is difficult or impossible to prescribe uniform general rules of procedure, uniform court records, standard statistical reports, and organized training systems. It is likewise difficult to transfer judges and other personnel temporarily within the system, because when transferred they have to master new jurisdictional rules and perhaps new procedures. Hence, unification of jurisdiction is at the same time a basic principle of judicial administration and a means of achieving other objectives of court improvement."

The Bar Association standards go on to note:

"There are no significant advantages of jurisdictional variation, except the unfair ones that accrue to those having special familiarity with the variations. Experience with court unification has shown that definitions of jurisdiction that are satisfactory for the state as a whole are also reasonably satisfactory for the various communities in it. Where accommodations to special local conditions are necessary, they can be achieved by specially formulated, but centrally approved procedural rules."

We believe these statements require careful consideration by Commission members.

The rationale of the Commission on Juvenile Justice majority for supporting a lack of uniformity appears to occur because the one present exception (Montgomery County) to uniform court rule appears to operate well. Montgomery County's system

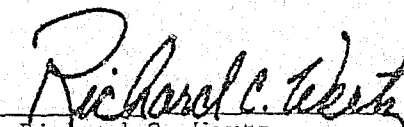
generally works well not because of its lack of uniformity with the rest of the State, but in spite of it. Montgomery County's system works well because it has two full-time judges with an interest and compassion for youth, strong community interest and support of the system and a county with the financial resources to provide adequate supporting services. Given the same two judges, or other judges of an equally high caliber and these other factors we have noted, there is no reason why the system cannot operate just as effectively at the Circuit Court level. It also is important to note that it was primarily political considerations that resulted in the juvenile court jurisdiction being placed at the District Court level in Montgomery County when the District Court was created. Montgomery County was not considered at that time as the pilot or model, but rather the aberration. It appears that it is the desire of the Commission majority that the aberration now become the rule.

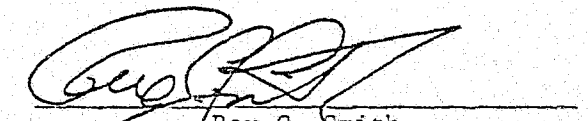
The Commission on Juvenile Justice majority has recommended that an Administrative Judge for Juvenile Causes be established to "coordinate and promote uniformity throughout the system." The administrative judge would also "insure administrative uniformity regardless of whether a bi-level system exists." What appears to be an implicit assumption in the majority's statements is that "uniformity throughout the system" is in fact desirable. This position appears contradictory with the majority's position that it is not necessary to maintain a State-wide uniform court level. It is our position that the first step in assuring that the juvenile courts operate in a uniform manner is to insure that all courts operate at the same level.

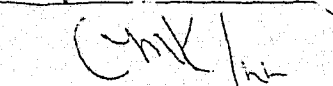
There is another issue with respect to the Administrative Juvenile Court Judge that should be noted. It appears that there could be some overlap between the duties and responsibilities of the Administrative Juvenile Judge and those of the Chief Judge of the District Court should juvenile jurisdiction be transferred. It would appear that responsibility for mandating uniform rules and procedures would rest with the Administrative Judge while actual management would rest with the Chief Judge of the District Court. We can envision a potentially chaotic situation where, for instance, the Administrative Juvenile Judge may mandate procedural changes which may require additional supporting court staff while the Chief Judge of the District Court, who is the only one capable of providing the required staff, may disagree or not have the required resources to provide the staff. We would suggest that a far better course of action would be the development of a unified juvenile court system, supported by an Administrative Judge.

We therefore agree that in Maryland:

1. It is necessary to position the Juvenile Court on the highest trial court level.
2. It is necessary to maintain a State-wide uniform court level.
3. It is desirable to establish a Family Court in Maryland which would have jurisdiction over all family-related matters.


Richard C. Wertz


Rex C. Smith


Christian M. Kahl

A P P E N D I C E S

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A P P E N D I X A

HOUSE JOINT RESOLUTION No. 50

By: Delegates Goldwater and Owens
 Introduced and read first time: February 21, 1975
 Assigned to: Judiciary

Committee Report: Favorable with amendments
 House Action: Adopted
 Read second time: March 28, 1975

APPROVED
 BY THE GOVERNOR

RESOLUTION NO. 49 MAY 15 '75

HOUSE JOINT RESOLUTION

A House Joint Resolution concerning 38
 Commission on Juvenile Justice 41
 FOR the purpose of creating the Commission on Juvenile 45
 Justice and providing for its composition and 46
 duties.
 WHEREAS, The children of this State are its most 48
 precious resource; and 49
 WHEREAS, The State has a strong humanitarian, 51
 social, and economic interest in assuring that its 52
 children receive proper care, guidance, and attention 53
 during their formative years in order that they may grow 54
 into useful and productive citizens; and
 WHEREAS, In recent years, there has been significant 56
 increase in the number of children who have been 57
 subjected to the juvenile justice system, by reason of 58
 their delinquent behavior, or because of their neglected 59
 or dependent status; and
 WHEREAS, Present proposals for necessary changes in 61
 the laws dealing with juvenile crime deal only with 62
 procedures; and
 WHEREAS, The overall philosophy and effectiveness of 64
 the current attitudes, programs, services, and procedures 65
 of our juvenile justice system are in need of review, in 66
 order to determine whether and how the system can be made 67
 more responsive to the needs of our children; and
 WHEREAS, It is important, as a first step, that the 69

EXPLANATION:

Underlining indicates amendments to the resolution.
 [[Double brackets]] enclose matter stricken out.
 Numerals at right identify computer lines of text.

HOUSE JOINT RESOLUTION No. 50

law of juvenile causes be made uniform throughout the 70
 State, in order to avoid the chaos which would result 71
 from a judicial determination that separate and unequal 72
 systems in the State constitute a denial of equal
 protection of the laws and are therefore 73
 unconstitutional; and

WHEREAS, With a uniform law and the avoidance of the 75
 most serious impending threat to the underlying base of 76
 the juvenile justice system, the determination of what 77
 substantive, structural, and organizational changes in 78
 the system may be advantageous can proceed in a calm and
 rational manner; and 79

WHEREAS, Although the determination of what the 81
 policies, programs, and law relating to juvenile services 82
 is a legislative matter, because of the complexities of 83
 the matter, the conflicting viewpoints concerning it, and 84
 the recent developments in this area, the General 85
 Assembly should have before it the considered opinion and
 recommendations of those persons most closely associated 86
 with and knowledgeable about the system; and 87

WHEREAS, It is not feasible to expect that a 89
 meaningful consensus of informed opinion can be arrived 90
 at during the remaining term of the 1975 Session; now, 91
 therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That 93

1. The Commission on Juvenile Justice be created. 95
 It shall consist of 15 persons, appointed as follows: 96

(a) One person shall be a member of the House 98
 Judiciary Committee and shall be appointed from the House 99
 of Delegates by the Speaker; 100

(b) One person shall be a member of the Senate 102
 Judicial Proceedings Committee and shall be appointed 103
 from the Senate by the President; 104

(c) Two judges shall be appointed by the Chief 106
 Judge of the Court of Appeals, one of whom shall have had 107
 significant experience sitting in juvenile court, and one 108
 of whom shall have had significant experience sitting in 109
 criminal court;

(d) Eleven persons shall be appointed by the 111
 Governor. One person shall be selected from the Juvenile 112
 Services Administration; one from the Department of 113
 Health and Mental Hygiene; one from the Social Services 114
 Administration; one from among the State's Attorneys in 115
 the State; one from the office of the Public Defender;
 one from the Maryland Bar Association; one child 116
 psychiatrist; one person with current experience in 117

HOUSE JOINT RESOLUTION No. 50

counseling juveniles; and three from the general public who have knowledge of and/or interest in juvenile causes. One person shall be a member of the Governor's staff, ex officio;	118
(e) These appointments to the Commission shall be made by July 31, 1975.	119
2. The Commission should have such staff assistance as is reasonable and appropriate, and may utilize the staff and services of the Department of Legislative Reference, if necessary.	121 122
3. All Executive and Judicial agencies of the State shall cooperate with the Commission.	124 125 126
4. The Commission shall review and evaluate the existing law, programs, and services relating to the juvenile justice system in Maryland and in accomplishment of this mission shall hear testimony and collect and study data from whatever source available, and make such recommendations to the Governor and the General Assembly as it deems appropriate; and	128 129
5. The Commission shall make an Interim Report by January 1, 1976, to the Governor and the General Assembly and make a Final Report to the Governor and General Assembly no later than [[July 1, 1977]] <u>January 1, 1977</u> ; and be it further	131 132 133 134 135 136
RESOLVED, That a copy of this Resolution be sent to the Governor of the State of Maryland, the President of the Senate, the Speaker of the House, and the Chief Judge of the Court of Appeals of Maryland.	138 139 140 141

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

A P P E N D I X B

REPORTS Prepared by or for the Commission on Juvenile Justice

Analysis and Comments on the Proposed Amendments to the Child in Need of Assistance Provisions of the Juvenile Causes Subtitle.
Luke V. Howard.

An Introductory Report on the Relationship Between Learning Disabilities and Juvenile Delinquency: Implications for Program and Service Needs. Jeanette Boyd.

Background Report on the Coordination of Children's Services.
Jeanette Boyd.

Children in Maryland Jails. Eileen L. Lewis.

Commentary on Proposed Amendments to the Child in Need of Assistance Provisions of the Juvenile Causes Act--Title 3-801, et seq., Courts and Judicial Proceedings, Maryland Annotated Code.
Susan P. Leviton and Nancy B. Shuger, The University of Maryland School of Law Developmental Disabilities Law Clinic, The Maryland State Planning and Advisory Council on Developmental Disabilities.

Proposed Amendments to the Child in Need of Assistance Provisions of the Juvenile Causes Act - Title 3-801, et seq., Courts and Judicial Proceedings, Maryland Annotated Code. Michael Millemann, Mary Gardner, Michael Middleton, The University of Maryland School of Law Developmental Disabilities Law Clinic.

Report on the Baltimore City Child Management Team. Jeanette Boyd.

Report on Out-of-State Purchase of Care. Jeanette Boyd.

Report on Outstanding Community-Based Programs for Juveniles: Providence Educational Center, Community Arbitration Program, Philadelphia Neighborhood Youth Resources Center. Jeanette Boyd.

Report on Parental Liability for Care of Children Committed to the Department of Health and Mental Hygiene. Jeanette Boyd.

WORKING PAPERS

Administrative Judge for Juvenile Causes. Marion Meckler

Appropriation of Juvenile Counselor Positions. Eileen Lewis.

Child Advocacy in Maryland. Marion Meckler.

Children in Need of Assistance. Marion Meckler

Community House Detention Program. Jeanette Boyd.

Comparison of the NAC Task Force on Juvenile Justice Standards to the Maryland Code and Rules. Luke V. Howard. (Commission's position attached in form of Minutes of Oct. 12, 1976).

Emancipation. Eileen L. Lewis

(The) Number of State Employees Providing Direct Services to Children. Eileen L. Lewis.

Position Statements on Bills from the 1976 Session; With Analysis and Commentary. Luke V. Howard. (includes: Jurisdiction of the Court (HB 1193, SB 628, HB 1507, SB 1102, HB 809); Fines and Penalties and Parental Liability (SB 1101, HB 1110, HB 150), Child in Need of Assistance (HJR 64, HB 1253, HB 1554, HB 871); Community Arbitration (HB 535, HB 536, HB 1111).

Volunteer Probation Program and 601 Diversion Program. Jeanette Boyd.

Minutes: Commission meetings; Committee on Programs and Services; Committee on Juvenile Code.

THESE REPORTS, PAPERS, AND MINUTES MAY BE OBTAINED BY WRITING THE COMMISSION ON JUVENILE JUSTICE. AFTER JANUARY 31, 1977 COPIES MAY BE OBTAINED THROUGH THE DEPARTMENT OF LEGISLATIVE REFERENCE IN ANNAPOLIS.

PERSONS APPEARING BEFORE COMMISSION

Mr. William Boucher, II, Executive Director of the Greater Baltimore Committee. (Presented GBC Report "Juvenile Justice: Opinions for Disposition".)

Hon. Thomas J. D'Alesandro, former Baltimore City Mayor. (Presenting ideas on vocational-educational programs for children.)

Caroline Martin, Executive Director, Transcare, Inc. of Maryland. (Presenting Transcare plan to accomodate court referred youth in an alternative, non-labeling shelter.)

Ms. Ann Irons, Chief, Division of Program and Policy Development and Mr. Curtis Decker, Director, H.E.L.P. (Computerized Central Registry for Child Abuse.)

Nancy Shuger, Esq., Developmental Disabilities Law Clinic (CINA proposals).

PERSONS APPEARING BEFORE COMMITTEES:

Charlotte Cooksey, Esq. Managing Attorney, Legal Aid Bureau, Inc. (Child Advocacy)

Mr. John Crouch, Mr. Ron Schmidt, Mr. Jerry Dziecichowics, Mr. Hank Sozinski, Intake Officers, Juvenile Services Administration.

Ms. Susan P. Leviton and Ms. Nancy B. Shuger (CINA proposals).

Mr. Conrad Nathan, Director, Jewish Big Brothers League, Inc.

A P P E N D I X C

COMMISSION'S LEGISLATIVE PROPOSALS

The Commission has drafted eight separate bills for the 1977 Session of the General Assembly. The first seven deal with self-contained issues, and their titles are self-explanatory. Each of these seven bills is treated by topic in the main text of this report.

The last bill in this Appendix, here titled "Omnibus Bill" addresses a number of different issues. The Commission decided on this "package" approach since most items are considered non-controversial or simply of a clarifying nature. The more substantive issues addressed in the "omnibus bill" are discussed by topic in the text of the report. These include: Notice to complainant of Intake decision on petition; 30 day detention limit for waiver; use of Maryland Children's Center for detention; definition of CINS; detention of juvenile traffic offenders in juvenile facilities; handling several juveniles involved in one offense. Although not treated in the Final Report, the remaining changes are considered necessary by the Commission. The majority are taken from HB 969 of 1976, and the purpose of each change is given in the Commission's Interim Report (1976).

APPENDIX C. 1.

A BILL ENTITLED	29
AN ACT concerning	32
Juvenile Causes - State Administrative Judge	35
FOR the purpose of creating the position of State Administrative Judge for Juvenile Causes; defining the duties and responsibilities; and generally relating to the position of State Administrative Judge.	38 39 40 41
BY adding to	43
Article - Courts and Judicial Proceedings	47
Section 3-803(c)	48
Annotated Code of Maryland	49
(1974 Volume and 1976 Supplement)	50
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Section 3-803(c) be and it is hereby added to Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) to read as follows:	52 54 56 57 58
Article - Courts and Judicial Proceedings	62
3-803.	65
(C) (1) THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL DESIGNATE A JUDGE, ASSIGNED SPECIALLY TO HANDLE CASES ARISING UNDER THIS SUBTITLE, AS STATE ADMINISTRATIVE JUDGE FOR JUVENILE CAUSES.	67 68 69
(2) THE RESPONSIBILITY OF THE STATE ADMINISTRATIVE JUDGE IS:	71
(I) TO OVERSEE AND COORDINATE THE ADMINISTRATION, OPERATION AND WORK OF THE COURTS ADMINISTERING THIS SUBTITLE THROUGHOUT THE STATE;	73 74
(II) TO ADVISE THE JUDGES FOR JUVENILE CAUSES REGARDING POLICIES AND PROCEDURES CONCERNING ALL MATTERS WITHIN THE SCOPE OF THIS SUBTITLE; AND	76 77

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

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By

(III) TO UNDERTAKE ADMINISTRATIVE FUNCTIONS RELATING TO THE JUDICIAL MANAGEMENT OF JUVENILE CAUSES PRESCRIBED BY THE CHIEF JUDGE OF THE COURT OF APPEALS. 79
80

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977. 84
86

A BILL ENTITLED 29

AN ACT concerning 32

Juvenile Causes - Use of Masters 35

FOR the purpose of prohibiting the use of masters to hear 38
juvenile causes; and providing for a certain delayed 39
effective date.

BY repealing and reenacting, with amendments, 41

Article - Courts and Judicial Proceedings 45
Section 3-813 46
Annotated Code of Maryland 47
(1974 Volume and 1976 Supplement) 48

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 50
MARYLAND, That Section 3-813 of Article - Courts and 53
Judicial Proceedings, of the Annotated Code of Maryland 54
(1974 Volume and 1976 Supplement) be and it is hereby 56
repealed and reenacted, with amendments, to read as
follows:

Article - Courts and Judicial Proceedings 60

3-813. 63

[(a)] The judges of a circuit court, and the Supreme 65
Bench of Baltimore City, may not appoint OR CONTINUE THE 66
APPOINTMENT OF a master for juvenile causes. [unless the 67
appointment and the appointee are approved by the Chief 68
Judge of the Court of Appeals. The standards expressed 69
in § 3-803, with respect to the assignment of judges, 70
shall also be applicable to the appointment of masters.
A master must, at the time of his appointment and 71
thereafter during his service as a master be a member in 72
good standing of the Maryland Bar. This subsection shall 73
not apply to a master appointed prior to June 1, 1971,
who is approved by the judge of the circuit court 74
exercising juvenile jurisdiction. 75

(b) If a master is appointed for juvenile causes, he 77
is authorized to conduct hearings. These proceedings 78

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

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shall be recorded, and the master shall make findings of 79
fact, conclusions of law, and recommendations as to an 80
appropriate order. These proposals and recommendations 81
shall be in writing, and, within 10 days after the 82
hearing, the original shall be filed with the court and a
copy served upon each party to the proceeding.

(c) Any party, in accordance with the Maryland 84
Rules, may file written exceptions to any or all of the 85
master's findings, conclusions, and recommendations, but 86
shall specify those items to which he objects. The party 87
who files exceptions may elect a hearing de novo or a
hearing on the record before the court. The hearing 88
shall be limited to those matters to which exceptions 89
have been taken.

(d) The proposals and recommendations of a master 91
for juvenile causes do not constitute orders or final 92
action of the court. They shall be promptly reviewed by 93
the court; and in the absence of timely and proper
exceptions, they may be adopted by the court and 94
appropriate orders entered based on them. 95

(e) If the court, on its own motion and in the 97
absence of timely and proper exceptions, decides not to 98
adopt the master's findings, conclusions, and 99
recommendations, or any of them it shall conduct a de
novo hearing. However, if all parties and the court 100
agree, the hearing may be on the record.] 101

SECTION 2. AND BE IT FURTHER ENACTED, That this Act 104
shall take effect July 1, 1978. 106

APPENDIX C. 3.

A BILL ENTITLED 29

AN ACT concerning 32

Juvenile Causes - Jurisdiction and Waiver of Jurisdiction 35

FOR the purpose of clarifying and revising certain provisions concerning the Juvenile Court jurisdiction; enlarging the jurisdiction of the Juvenile Court over certain offenses; eliminating the age provision concerning a certain waiver petition in that Court. 36

BY repealing and reenacting, with amendments, 39

Article - Courts and Judicial Proceedings 40

Section 3-804 and 3-817(a) 41

Annotated Code of Maryland 42

(1974 Volume and 1976 Supplement), 44

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Sections 3-804 and 3-817(a) of Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) be and they are hereby repealed and reenacted, with amendments, to read as follows: 48

Article - Courts and Judicial Proceedings 49

3-804. 52

(a) The court has exclusive original jurisdiction over a child alleged to be delinquent, in need of supervision, or in need of assistance. 53

(b) The court has exclusive original jurisdiction over proceedings arising under the Interstate Compact on Juveniles. 55

(c) The court has exclusive original jurisdiction over proceedings against an adult for the violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction under this subsection upon its own motion or 58

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

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By

upon the motion of any party to the proceeding, if charges against the adult arising from the same incident are pending in the criminal court. Upon motion by an adult charged under § 3-831, the court shall waive its jurisdiction, and the adult shall be tried in the criminal court according to the usual criminal procedure. 79

(d) The court does not have jurisdiction over: 80

[(1) A child 14 years old or older alleged to have done an act which, if committed by an adult, would be a crime punishable by death or 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 pursuant to § 594A of Article 27;] 81

[(2)] (1) A child 16 years old or older alleged to have done an act in violation of any provision of the State Vehicle Law or any other traffic law or ordinance except when the charge is manslaughter by automobile, possession of a stolen motor vehicle, unauthorized use or occupancy of a motor vehicle, tampering with a motor vehicle[, or] driving while INTOXICATED, impaired or under the influence of alcohol or drugs, OR VIOLATION OF ANY PROVISION OF THE STATE VEHICLE LAW OR OTHER TRAFFIC LAW OR ORDINANCE THAT PRESCRIBES A PENALTY OF INCARCERATION; 82

[(3)] (2) A child 16 years old or older 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 when the charge is manslaughter by boat, possession of a stolen boat, tampering with a boat, [or] operating a boat while INTOXICATED, IMPAIRED, OR under the influence of [intoxicating liquor] ALCOHOL or drugs OR VIOLATION OF ANY PROVISION OF LAW, RULE OR REGULATION GOVERNING THE USE OR OPERATION OF A BOAT, THAT PRESCRIBES A PENALTY OF INCARCERATION. 83

[(4) A child 16 years old or older alleged to have committed the crime of robbery with a deadly weapon 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 pursuant to § 594A of Article 27.] 85

(e) If the child is 16 YEARS OLD OR OLDER AND charged with two or more violations of the State 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 87

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court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of the charges. 122

3-817. 124

(a) The court may waive the exclusive jurisdiction conferred by § 3-804 with respect to a petition alleging delinquency. [by: 127 128

(1) A child who is 15 years old or older, or 130

(2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by death or life imprisonment.] 132 133 134

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977. 138 140

A BILL ENTITLED 29

AN ACT concerning 32

Juvenile Causes - Juvenile Code 35

FOR the purpose of clarifying, revising and defining certain terms concerning the juvenile causes law; revising and clarifying the responsibilities of the intake officer; creating an interagency council for the coordination of certain services for children in need of supervision and in need of services; establishing guidelines for the court to follow in ordering disposition for children in need of supervision and in need of assistance; providing for periodic review of the commitment of certain children after disposition; and generally relating to a child in need of assistance and juvenile causes. 38 39 40 41 42 43 44 45

BY repealing and reenacting, with amendments, 47

Article - Courts and Judicial Proceedings 51

Section 3-801, 3-802, 3-810, 3-815, 3-818, 3-820, 3-823 and 3-826 52

Annotated Code of Maryland 55

(1974 Volume and 1976 Supplement) 56

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Sections 3-801, 3-802, 3-810, 3-815, 3-818, 3-820, 3-823 and 3-826 of Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) be and they are hereby repealed and reenacted, with amendments, to read as follows: 58 59 61 62 64

Article - Courts and Judicial Proceedings 68

3-801. Definitions. 71

(a) In this subtitle, the following words have the meanings indicated, unless the context of their use indicates otherwise: 73 74

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Numerals at right identify computer lines of text.

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(b) "Adjudicatory hearing" means a hearing to determine whether the allegations in the petition, other than allegations that the child requires the court's assistance, treatment, guidance or rehabilitation, are true.	76 77 78
(c) "Adult" means a person who is 18 years old or older.	81
(d) "Child" means a person under the age of 18 years.	84
(e) "Child in need of assistance" [is] MEANS a child who requires the PROTECTIVE assistance of the court because:	87 88
(1) He is mentally handicapped or is not receiving ordinary and proper care and attention, and	91 92
(2) His parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and his problems provided, however, a child shall not be deemed to be in need of assistance for the sole reason he is being furnished nonmedical remedial care and treatment recognized by State law.]	95 96 97 98 99
(1) EITHER HIS PHYSICAL OR EMOTIONAL HEALTH IS ENDANGERED BY PHYSICAL, PSYCHOLOGICAL OR SEXUAL INJURY OR ABUSE CAUSED BY THE CONDUCT OF OR INADEQUATE SUPERVISION BY HIS PARENT, GUARDIAN, OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM; OR	101 102 103 104
(2) HIS PHYSICAL OR EMOTIONAL HEALTH IS ENDANGERED AS A RESULT OF THE INABILITY, REFUSAL OR NEGLIGENCE OF HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM TO SUPPLY THE CHILD WITH NECESSARY FOOD, CLOTHING, SHELTER, MEDICAL CARE, OR REQUIRED EDUCATION; OR	106 107 108 109
(3) HE IS WITHOUT NECESSARY FOOD, CLOTHING, SHELTER, MEDICAL CARE, REQUIRED EDUCATION, OR SUPERVISION BECAUSE OF THE DISAPPEARANCE OR THE PROLONGED ABSENCE OF HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM; AND	111 112 113 114
(4) HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM IS UNWILLING OR UNABLE TO PROVIDE OR ACCEPT THE NECESSARY SUPPORTIVE SERVICES. HOWEVER, A CHILD MAY NOT BE CONSIDERED TO BE IN NEED OF ASSISTANCE SOLELY BECAUSE HE IS BEING FURNISHED NONMEDICAL REMEDIAL CARE AND TREATMENT RECOGNIZED BY STATE LAW.	116 117 118 119 120

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(f) "Child in need of supervision" is a child who requires guidance, treatment, or rehabilitation because	123 124
(1) He is required by law to attend school and is habitually truant; or	127
(2) He is habitually disobedient, ungovernable, and beyond the control of the person having custody of him without substantial fault on the part of that person; or	130 131 132
(3) He deports himself so as to injure or endanger himself or others; or	135
(4) He has committed an offense applicable only to children.	138
(g) "Commit" means to transfer legal custody.	141
(h) "Complainant" means any person or agency that files or causes to be filed a complaint with an intake officer.	143 144
(i) "Court" means the circuit court of a county or Baltimore City sitting as the juvenile court. In Montgomery County, it means the District Court sitting as the juvenile court.	147 148 149
(j) "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.	152 153 154
(k) "Delinquent act" means an act which would be a crime if committed by an adult.	157 158
(l) "Delinquent child" is a child who has committed a delinquent act and requires guidance, treatment, or rehabilitation.	161 162
(m) "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.	165 166 167
(n) "Disposition hearing" means a hearing to determine:	169
(1) Whether a child needs or requires the court's assistance, guidance, treatment or rehabilitation; and if so	171 172
(2) The nature of the assistance, guidance, treatment or rehabilitation.	174

(o) "Intake officer" means the person assigned to the court by the Juvenile Services Administration to provide the intake services set forth in this subtitle. IF A COMPLAINT IS FILED CHARGING THAT A CHILD IS IN NEED OF ASSISTANCE, THE INTAKE OFFICER MEANS A PERSON ASSIGNED BY THE COURT EITHER FROM THE JUVENILE SERVICES ADMINISTRATION OR THE COUNTY DEPARTMENT OF SOCIAL SERVICES.

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

(P) "INTERAGENCY COUNCIL" MEANS A PERMANENT BODY COMPOSED OF ONE OR MORE REPRESENTATIVES FROM AGENCIES THAT PROVIDE SUPPORT SERVICES TO CHILDREN IN THE GEOGRAPHIC AREA COTERMINOUS WITH THE COURT'S JURISDICTION, INCLUDING:

- (1) THE COUNTY DEPARTMENT OF SOCIAL SERVICES; 191
- (2) THE JUVENILE SERVICES ADMINISTRATION; 193
- (3) THE MENTAL HYGIENE ADMINISTRATION; 195
- (4) THE MENTAL RETARDATION ADMINISTRATION; 197
- (5) THE DEPARTMENT OF EDUCATION; 199
- (6) THE COUNTY DEPARTMENT OF HEALTH; 201
- (7) THE DEPARTMENT OF VOCATIONAL REHABILITATION; AND 203
- (8) ANY OTHER AGENCIES DESIGNATED BY THE COURT. 205

(Q) "MENTAL ILLNESS" MEANS ANY MENTAL DISORDER SUBSTANTIALLY IMPAIRING A CHILD'S MENTAL OR EMOTIONAL FUNCTIONING. 207-208

(R) "MENTAL RETARDATION" MEANS SIGNIFICANTLY SUBAVERAGE GENERAL INTELLECTUAL FUNCTIONING EXISTING CONCURRENTLY WITH DEFICITS IN ADAPTIVE BEHAVIOR AND MANIFESTED DURING THE DEVELOPMENTAL PERIOD. 210-212

[(g)] (S) "Party" includes a child, who is the subject of a petition, the child's parent, guardian, [or] custodian OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM, the petitioner and an adult who is charged under § 3-831 of this subtitle. 216-218

(T) "PROTECTIVE SUPERVISION" MEANS SUPERVISION ORDERED BY THE COURT UPON DISPOSITION OF A CHILD ADJUDICATED IN NEED OF SUPERVISION OR IN NEED OF ASSISTANCE. 220-221

(U) "SECURE CUSTODY" MEANS THE PLACEMENT OF A CHILD MEETING THE CRITERIA SET FORTH IN SECTION 3-823(C) OF THIS SUBTITLE IN A HEALTH FACILITY LICENSED BY OR UNDER THE JURISDICTION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE. 223-225

[(r)] (V) "Shelter care" means the temporary care of children in physically unrestricting facilities, pending court disposition. 228-229

(W) "SUPPORTIVE SERVICES" MEANS ANY SERVICE PROVIDED BY A PRIVATE OR PUBLIC AGENCY IN THE COMMUNITY TO WHICH THE COURT MAKES A REFERRAL UPON DISPOSITION OR WHICH AN INTAKE OFFICER OFFERS FOR ACCEPTANCE ON A VOLUNTARY BASIS AS PART OF THE INFORMAL ADJUSTMENT PROCESS TO: 231-234

(1) A CHILD WHO IS THE SUBJECT OF A COMPLAINT FILED CHARGING HIM TO BE IN NEED OF ASSISTANCE; AND 236-237

(2) HIS PARENT, GUARDIAN, OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM. 239
3-802. Purposes of subtitle. 241

(a) The purposes of this subtitle are: 244

(1) To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest; 247-251

(2) TO DIVERT FROM THE JURISDICTION OF THE COURT, TO THE EXTENT POSSIBLE CONSISTENT WITH THE CHILD'S BEST INTERESTS AND THE PROTECTION OF THE PUBLIC INTEREST, THOSE CHILDREN WHO CAN BE TREATED IN COMMUNITY PROGRAMS; 253-255

(3) TO PROVIDE FOR INTERAGENCY COOPERATION IN RECOMMENDING AND IMPLEMENTING THE TREATMENT PLAN OF EACH CHILD COMING WITHIN THE PROVISIONS OF THIS SUBTITLE WHERE SUCH COOPERATION IS CONSIDERED IN THE CHILD'S BEST INTEREST; 257-259

[(2)] (4) To remove from children committing delinquent acts the taint of criminality and the 262-263

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consequences of criminal behavior; 263

[(3)] (5) To conserve and strengthen the child's family ties and to separate a child from his parents only when necessary for his welfare or in the interest of public safety; 266
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[(4)] (6) If necessary to remove a child from his home, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents[.]; 271
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[(5)] (7) To provide judicial procedures for carrying out the provisions of this subtitle. 276
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(b) This subtitle shall be liberally construed to effectuate these purposes. 280
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3-810. Complaint; preliminary procedures. 283

(a) Any person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court may file a complaint with the intake officer of the court having proper venue. 286
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(b) In considering the complaint, the intake officer shall make a preliminary inquiry as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. He may, after such inquiry and in accordance with this section, (i) authorize the filing of a petition, (ii) conduct a further investigation into the allegations of the complaint, (iii) propose an informal adjustment of the matter, or (iv) refuse authorization to file a petition. 291
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(c) The intake officer may authorize the filing of a petition if, based upon the complaint and his preliminary inquiry, he concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child. The intake officer shall inform the parties, preferably in person, of his decision to authorize the filing of a petition and the reasons for his decision. 300
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(d) The intake officer may conduct a further investigation if he concludes based upon the complaint and his preliminary inquiry, that further inquiry is necessary in order to determine whether the court has jurisdiction or whether judicial action is in the best interests of the public or the child. The further investigation shall be completed and a decision made by the intake officer within 10 days, unless that time is 308
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extended by the court. 314

(e) The intake officer may propose an informal adjustment of the matter if based on the complaint, his preliminary inquiry, and such further investigation as he may make, he concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child. If the intake officer proposes an informal adjustment, he shall inform the parties of the nature of the complaint, the objectives of the adjustment process, the conditions and procedures under which it will be conducted, and the fact that it is not obligatory. The intake officer shall not proceed with an informal adjustment unless all parties to the proceeding consent to that procedure. 317
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(f) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate; however, no party is compelled to appear at any conference, produce any paper, or visit any place. The informal adjustment process shall not exceed 90 days unless that time is extended by the court. If all of the parties do not consent to an informal adjustment, or such adjustment cannot, in the judgment of the intake officer, be completed successfully, he shall authorize the filing of a petition or deny authorization to file a petition pursuant to subsection [(g)] (H). 329
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(G) IF THE COMPLAINT ALLEGES THAT A CHILD IS IN NEED OF SUPERVISION OR IN NEED OF ASSISTANCE: 339
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(1) THE INTAKE OFFICER SHALL DETERMINE WHETHER SUPPORTIVE SERVICES SUFFICIENT TO REMEDY THE ALLEGED DANGER TO THE CHILD CAN BE DELIVERED ON A VOLUNTARY BASIS; 342
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(2) IF A PRIOR ATTEMPT TO REMEDY THE HARM ON A VOLUNTARY BASIS HAS NOT BEEN MADE AND THE INTAKE OFFICER BELIEVES THAT AN ATTEMPT WOULD NOT ENDANGER THE CHILD OR PROVE UNAVAILING, HE SHALL REQUEST AN ATTEMPT FROM THE REFERRING OR OTHER APPROPRIATE AGENCY AS PART OF THE INFORMAL ADJUSTMENT PROCESS; 345
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(3) IF THE INTAKE OFFICER DETERMINES THAT IT IS NECESSARY TO FILE A PETITION BECAUSE THIS ADJUSTMENT HAS NOT BEEN COMPLETED SUCCESSFULLY, THE PETITION SHALL CONTAIN OR BE ACCOMPANIED BY A STATEMENT THAT ALL AVAILABLE MEANS OF ALLEVIATING THE ALLEGED HARM WITHOUT COURT INTERVENTION HAVE BEEN FULLY EXPLORED, INCLUDING A DESCRIPTION OF THE EFFORTS MADE AND THE REASONS FOR THE UNSUCCESSFUL ADJUSTMENT;. 350
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(4) AFTER MAKING A DETERMINATION THAT REASONABLE CAUSE EXISTS TO BELIEVE THE CHILD IS IN NEED OF SUPERVISION OR IN NEED OF ASSISTANCE WHICH CANNOT BE PROVIDED ON A VOLUNTARY BASIS, THE INTAKE OFFICER SHALL:

(I) FILE THE PETITION WITH THE COURT;

AND

(II) REFER TO THE INTERAGENCY COUNCIL ANY PETITION CONCERNING A CHILD FOR WHOM IT REASONABLY APPEARS:

(A) MENTAL RETARDATION OR MENTAL ILLNESS IS A FACTOR IN HIS PRESENCE BEFORE THE COURT; OR

(B) AN APPROPRIATE DISPOSITION WILL REQUIRE RESOURCES FROM MORE THAN ONE AGENCY.

[(g)] (H) If based upon the complaint, his preliminary inquiry, and such further investigation as he may make, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, he may deny authorization to file a petition. He shall, in that event, inform the complainant, in writing, of his decision, the reasons for it, and the complainant's right of review provided in this section.

[(h)] (I) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the complainant may, within 15 days of the denial, submit the complaint for review by the State's attorney. The State's attorney shall promptly review the complaint. If, within 15 days, he concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, he may authorize the filing of a petition.

[(i)] (J) If the complaint does not allege the commission of a delinquent act, the complainant may, within 15 days of the denial, submit the complaint for review by the regional supervisor of the intake officer. The supervisor shall promptly review the complaint. If, within 15 days, he concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, he may authorize the filing of a petition in writing.

(K) THE INTAKE OFFICER IS NOT REQUIRED TO COMPLY WITH THE PROVISIONS IN SECTION 3-810(G)(1) THROUGH (4) OF THIS SUBTITLE BEFORE PLACING A CHILD IN SECURE CUSTODY PRIOR TO THE HEARING FOR CONTINUED SHELTER CARE OR SECURE CUSTODY IF HE HAS PROBABLE CAUSE TO BELIEVE THE CHILD

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MEETS THE CRITERIA SET FORTH IN SECTION 3-823(C) OF THIS SUBTITLE.

3-815. Detention, [and] shelter care, AND SECURE CUSTODY prior to hearing.

(a) Only the court or an intake officer may authorize detention, [or] shelter care, OR SECURE CUSTODY.

(b) If a child is taken into custody, he may be placed in detention or shelter care prior to a hearing if:

(1) Such action is required to protect the child or person and property of others;

(2) The child is likely to leave the jurisdiction of the court; or

(3) There are no parents, guardian, or custodian or other person able to provide supervision and care for the child and return him to the court when required.

(C) IF A CHILD IS TAKEN INTO CUSTODY, HE MAY BE PLACED IN SECURE CUSTODY PRIOR TO A HEARING FOR CONTINUED SHELTER CARE OR SECURE CUSTODY IF THE COURT OR AN INTAKE OFFICER HAS PROBABLE CAUSE TO BELIEVE THE CHILD MEETS THE CRITERIA SET FORTH IN SECTION 3-823(C) OF THIS SUBTITLE.

[(c)] (D) If the child is not released, the intake officer shall immediately file a petition to authorize continued detention, [or] shelter care OR SECURE CUSTODY. A hearing on the petition shall be held not later than the next court day, unless extended by the court upon good cause shown. 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, his parents, guardian, or custodian. Detention, [and] shelter care, AND SECURE CUSTODY shall not be ordered for a period of more than 30 days unless an adjudicatory hearing is held.

[(d)] (E) After January 1, 1978, a child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults, or in a facility in which children who have been adjudicated delinquent are detained.

[(e)] (F) A child alleged to be in need of supervision or in need of assistance may not be placed in detention. [If the child is alleged to be in need of

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assistance by reason of a mental handicap, he may be placed in shelter care facilities maintained or licensed by the Department of Health and Mental Hygiene or if these facilities are not available, then in a private home or facility located in Maryland and approved by the court.] ONLY A CHILD WHO IS ALLEGED TO BE IN NEED OF ASSISTANCE AND WHO MEETS THE CRITERIA SET FORTH IN SECTION 3-823(C) OF THIS SUBTITLE MAY BE PLACED IN SECURE CUSTODY. If the child is alleged to be in need of assistance for any other reason, or in need of supervision, he may be placed in shelter care facilities maintained or approved by the [Department of Employment and Social Services,] SOCIAL SERVICES ADMINISTRATION, or the Juvenile Services Administration, or in a private home or shelter care facility approved by the court.

[(f)] (g) The intake officer shall immediately give written notice of the authorization for detention, [or] shelter care OR SECURE CUSTODY 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 or shelter care. This notice may be combined with the notice required under subsection [(c)] (D).

3-818. Study and examination of child, etc.

(a) After a petition has been filed, the court may direct the Juvenile Services Administration or other qualified agency designated by the court, to make a study concerning the child, his family, his environment, and other matters relevant to the disposition of the case. The report of the study is admissible as evidence at a waiver hearing and at a disposition hearing, but not at an adjudicatory hearing. However, the attorney for each party has the right to inspect the report prior to its presentation to the court, to challenge or impeach its findings, and to present appropriate evidence with respect to it. REPORTS MADE BY THE INTERAGENCY COUNCIL ARE ADMISSIBLE AS EVIDENCE IN THE SAME MANNER AS ALL OTHER REPORTS ORDERED BY THE COURT UNDER THIS SUBSECTION.

(b) As part of the study, the child or [any] HIS parent[, guardian, or custodian] may be examined at a suitable place by a physician, psychiatrist, psychologist, or other professionally qualified person.

(c) A PETITION CONCERNING A CHILD ALLEGED TO BE IN NEED OF SUPERVISION OR IN NEED OF ASSISTANCE MAY BE REFERRED TO THE INTERAGENCY COUNCIL BY: (1) THE INTAKE OFFICER UNDER SECTION 3-810(G) (4) OF THIS SUBTITLE; OR (2) BY THE COURT AT ANY STAGE OF THE PROCEEDINGS IF IT REASONABLY APPEARS (I) THAT AN APPROPRIATE DISPOSITION

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WILL REQUIRE SERVICES FROM MORE THAN ONE AGENCY OR (II) THAT MENTAL RETARDATION OR MENTAL ILLNESS IS A FACTOR IN THE CHILD'S PRESENCE BEFORE THE COURT.

(D) (1) WHENEVER A PETITION CONCERNING A CHILD IS REFERRED TO THE COUNCIL, IT SHALL CONDUCT A STUDY AND EVALUATION OF THE CHILD AND HIS BACKGROUND TO DETERMINE HIS NEEDS AND HOW BEST TO UTILIZE AVAILABLE RESOURCES TO MEET THOSE NEEDS.

(2) THE SCOPE AND CONTENT OF THE STUDY SHALL BE DEFINED IN EACH CASE BY THE EXTENT TO WHICH THE COUNCIL LACKS ADEQUATE INFORMATION TO DETERMINE THE MOST APPROPRIATE DISPOSITION.

(3) ON THE BASIS OF THEIR STUDY AND EVALUATION OF THE CHILD AND OF AVAILABLE RESOURCES, THE COUNCIL SHALL PREPARE A WRITTEN REPORT DESCRIBING ALL REASONABLY APPROPRIATE ALTERNATIVE DISPOSITIONS.

(I) THE REPORT SHALL RECOMMEND A SPECIFIC PLAN OF CARE AND ASSISTANCE WHICH IS CALCULATED TO RESOLVE THE PROBLEMS PRESENTED IN THE PETITION AND WHICH THE AGENCIES WILL COOPERATE IN IMPLEMENTING.

(II) THE RECOMMENDED PLAN SHALL BE THE LEAST RESTRICTIVE COURSE OF SERVICES, CARE OR TREATMENT CONSISTENT WITH THE CHILD'S NEEDS, AND IF IT IS RECOMMENDED THAT THE CHILD BE PLACED OUTSIDE THE HOME OF HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM, THE COUNCIL SHALL GIVE PREFERENCE TO PLACEMENT IN THE MANNER PROVIDED IN SECTION 3-820.

(III) THE REPORT SHALL EXPLAIN THE NECESSITY FOR THE PROPOSED PLAN AND ITS EXPECTED BENEFIT TO THE CHILD.

(IV) THE REPORT SHALL CONTAIN SPECIFIC REASONS FOR NOT RECOMMENDING PLACEMENT OF THE CHILD WITH HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM, IF ANOTHER PLACEMENT IS RECOMMENDED.

(V) THE REPORT SHALL BE FILED WITH THE COURT WITHIN 30 DAYS OF THE DATE THE PETITION IS REFERRED TO THE INTERAGENCY COUNCIL. HOWEVER, IF THE CHILD IS IN CONTINUED SHELTER CARE OR SECURE CUSTODY THE REPORT SHALL BE FILED WITH THE COURT WITHIN 30 DAYS OF THE DATE THAT THIS PLACEMENT WAS ORDERED.

(4) THE INTERAGENCY COUNCIL IS CREATED AND OPERATES AS FOLLOWS:

(I) THE CHIEF JUDGE OF THE COURT OF

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APPEALS OF MARYLAND SHALL APPOINT A JUDGE WHO PRESIDES IN EACH COURT TO FACILITATE THE CREATION AND OPERATION OF THE COUNCIL.

(II) THE JUDGE APPOINTED SHALL REQUEST THE DIRECTOR OF EACH AGENCY NAMED IN SECTION 3-801(P) OF THIS SUBTITLE TO APPOINT AN EMPLOYEE TO SERVE AS A MEMBER OF THE COUNCIL. WITHIN 60 DAYS OF THIS REQUEST: (A) THE DIRECTOR OF EACH AGENCY SHALL FURNISH THE JUDGE WITH WRITTEN NOTICE OF HIS APPOINTMENT; AND (B) THE JUDGE SHALL ORDER A COUNCIL MEETING TO BE HELD AT A DESIGNATED TIME AND PLACE.

(III) EACH MEMBER SHALL BE AUTHORIZED BY HIS AGENCY TO OBLIGATE ITS SERVICES AND TO ASSIGN ITS PERSONNEL TO INDIVIDUAL CASES, SUBJECT TO FUNDS PROVIDED IN HIS AGENCY'S BUDGET.

(IV) AT THE INITIAL COUNCIL MEETING AND EVERY SIX MONTHS THEREAFTER THE JUDGE SHALL APPOINT A CHAIRPERSON TO CONDUCT THE BUSINESS OF THE COUNCIL.

3-820. Disposition.

(a) After an adjudicatory hearing the court shall hold a separate disposition hearing, unless the petition is dismissed or unless such hearing is waived in writing by all of the parties. The disposition hearing may be held on the same day as the adjudicatory hearing, if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on the record by all of the parties.

(b) The overriding consideration in making a disposition is a program of treatment, training, and rehabilitation best suited to the physical, mental, and moral welfare of the child consistent with the public interest.

(1) IF THE CHILD IS ADJUDICATED AS BEING DELINQUENT, [The] THE court may:

[(1)] (I) 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;

[(2)] (II) Commit the child to the custody or under the guardianship of the Juvenile Services Administration, a [local] COUNTY department of social services, the Department of Health and Mental Hygiene, or a public or licensed private agency.

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(2) IF THE CHILD IS ADJUDICATED IN NEED OF SUPERVISION OR IN NEED OF ASSISTANCE, THE COURT SHALL DETERMINE A DISPOSITION THAT IS THE LEAST RESTRICTIVE COURSE OF SERVICES, CARE OR TREATMENT CONSISTENT WITH THE CHILD'S NEEDS. IN DETERMINING THE LEAST RESTRICTIVE COURSE OF SERVICES, CARE OR TREATMENT, THE COURT SHALL BE GUIDED BY THE FOLLOWING SEQUENCE OF DISPOSITIONS:

(I) RETURN THE CHILD TO THE CUSTODY OF HIS PARENT, GUARDIAN OR THE PERSON WHO HAD PHYSICAL CARE AND CONTROL OF HIM PRIOR TO THE FILING OF THE PETITION;

(II) REFER THE CHILD AND THE CHILD'S PARENT, GUARDIAN OR THE PERSON WHO HAD PHYSICAL CARE AND CONTROL OF HIM TO A PRIVATE OR PUBLIC COMMUNITY AGENCY FOR SUPPORTIVE SERVICES;

(III) PLACE THE CHILD UNDER PROTECTIVE SUPERVISION IN THE HOME OF HIS PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM UNDER TERMS WHICH PRESCRIBE THE MANNER OF SUPERVISION AND CARE AND ARE WITHIN THE ABILITY OF THE PARENT, GUARDIAN OR THE PERSON WHO HAS PHYSICAL CARE AND CONTROL OF HIM TO PERFORM;

(IV) PLACE THE CHILD UNDER THE GUARDIANSHIP OF A RELATIVE OR OTHER FIT PERSON;

(V) ORDER RESIDENTIAL PLACEMENT OF THE CHILD IN FOSTER CARE, GIVING PRECEDENCE TO PLACEMENTS IN THE FOLLOWING SEQUENCE:

(A) A RELATIVE OR A FRIEND OF THE FAMILY;

(B) A FOSTER FAMILY IN THE CHILD'S COMMUNITY;

(C) A GROUP HOME; OR

(VI) UPON SUBMISSION OF A SPECIFIED PROGRAM OR TREATMENT PLAN, PLACE THE CHILD UNDER PROTECTIVE SUPERVISION OR CUSTODY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES, THE MENTAL HYGIENE ADMINISTRATION, THE MENTAL RETARDATION ADMINISTRATION, OR A SPECIFIED PUBLIC OR LICENSED PRIVATE AGENCY.

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

3-823. Limitations on place of commitment.

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(a) A child may not be committed or transferred to a penal institution or other facility used primarily for the confinement of adults charged with or convicted of a crime, except pursuant to § 3-816 (b). 617
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[(b) A child who is not delinquent may not be committed or transferred to a facility used for the confinement of delinquent children.] 622
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(B) IF A CHILD IS ALLEGED OR ADJUDICATED TO BE IN NEED OF ASSISTANCE, HE MAY NOT BE DETAINED IN OR COMMITTED TO A TRAINING SCHOOL OR ANY SIMILAR INSTITUTION. 625
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(C) A CHILD IN NEED OF ASSISTANCE MAY BE PLACED IN AN INSTITUTION FOR THE MENTALLY ILL OR MENTALLY RETARDED IF: 628
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(1) THE CHILD IS MENTALLY ILL OR MENTALLY RETARDED; 631

(2) THE CHILD IS IN NEED OF INSTITUTIONAL IN-PATIENT TREATMENT; AND 633

(3) THE CHILD PRESENTS A DANGER TO HIS OWN LIFE OR SAFETY OR THE LIFE OR SAFETY OF OTHERS. 635
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3-826. Progress Reports. 638

(A) If a child is committed to an individual or to a public or private agency or institution, [the court may require the custodian to file] THE CUSTODIAN AND SUPERVISING AGENCY SHALL FILE WITH THE COURT periodic written progress reports, EVERY SIX MONTHS AFTER ENTRY OF THE DISPOSITIONAL ORDER. [with recommendations for further supervision, treatment, or rehabilitation.] THE REPORTS SHALL INCLUDE: 641
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(1) THE CHILD'S VISITATION SCHEDULE; 648

(2) ANY PROPOSED CHANGE IN THE CHILD'S PLACEMENT, AND ANY REASONS FOR THE CHANGES, IF THEY HAVE ALREADY OCCURRED; 650
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(3) RECOMMENDATIONS FOR FURTHER SUPERVISION, TREATMENT OR REHABILITATION; AND 653

(4) ANY OTHER INFORMATION RELEVANT TO THE CHILD'S PLACEMENT. 655

(B) A COPY OF EACH REPORT SHALL BE SENT TO COUNSEL REPRESENTING ALL PARTIES INVOLVED IN THE PETITION(S) WHICH RESULTED IN THE CHILD'S COMMITMENT. 657
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(C) UPON REQUEST OF COUNSEL THE COURT SHALL HOLD A HEARING TO REVIEW THE CHILD'S COMMITMENT. 660
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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977. 665
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APPENDIX C . 5 .

AN EMERGENCY BILL BILL ENTITLED	29
AN ACT concerning	32
Juveniles - Detention In Facilities	35
FOR the purpose of repealing a certain effective date; and making this Act an emergency measure.	38
BY repealing and reenacting, with amendments,	40
Article - Courts and Judicial Proceedings	44
Section 3-815(d)	45
Annotated Code of Maryland	46
(1974 Volume and 1976 Supplement)	47
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 3-815(d) of Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) be and it is hereby repealed and reenacted, with amendments, to read as follows:	49
Article - Courts and Judicial Proceedings	59
3-815.	62
(d) [After January 1, 1978, a] A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults, or in a facility in which children who have been adjudicated delinquent are detained.	64
SECTION 2. AND BE IT FURTHER ENACTED, That this Act is hereby declared to be an emergency measure and necessary for the immediate preservation of the public health and safety and having been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, the same shall take effect from the date of its passage.	70

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

APPENDIX C . 6 .

A BILL ENTITLED	29
AN ACT concerning	32
Juveniles - Parental Liability	35
FOR the purpose of creating causes of action against a parent of a minor child for the child's acts in wilfully damaging, destroying, or stealing property or for wilfully and maliciously assaulting another.	38
BY adding to	42
Article 72A - Parent and Child	46
Section 4 and 5	47
Annotated Code of Maryland	48
(1970 Replacement Volume and 1976 Supplement)	49
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Sections 4 and 5 be and they are hereby added to Article 72A - Parent and Child, of the Annotated Code of Maryland (1970 Replacement Volume and 1976 Supplement) to read as follows:	51
Article 72A - Parent and Child	61
4. LIABILITY OF PARENTS FOR PROPERTY LOSSES.	64
(A) ANY OWNER OF PROPERTY MAY MAINTAIN A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER COMPENSATORY DAMAGES IN AN AMOUNT NOT TO EXCEED \$1,000 AND COSTS OF THE SUIT FROM THE PARENT HAVING THE CUSTODY AND CONTROL OF A PERSON WHO, WHILE UNDER THE AGE OF 18 YEARS, WILFULLY DAMAGES PROPERTY BELONGING TO THAT OWNER. A FINDING OF WILFUL DESTRUCTION OF PROPERTY IS NOT DEPENDENT UPON A PRIOR FINDING OF DELINQUENCY OF THE MINOR.	66
(B) ACTION SHALL BE COMMENCED AND HEARD AS IN OTHER CIVIL ACTIONS FOR DAMAGES.	73
5. LIABILITY OF PARENTS FOR ASSAULTS BY THEIR CHILDREN.	75
(A) ANY PERSON MAY MAINTAIN A CIVIL ACTION IN A	77

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

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COURT OF COMPETENT JURISDICTION TO RECOVER COMPENSATORY DAMAGES IN AN AMOUNT NOT TO EXCEED \$1,000 AND COSTS OF THE SUIT FROM THE PARENT HAVING THE CUSTODY AND CONTROL OF A PERSON WHO, WHILE UNDER THE AGE OF 18 YEARS, WILFULLY AND MALICIOUSLY ASSAULTS THAT PERSON BY A MEANS OR FORCE LIKELY TO PRODUCE GREAT BODILY HARM. A FINDING OF WILFUL AND MALICIOUS ASSAULT BY SUCH MEANS OR FORCE IS NOT DEPENDENT UPON A PRIOR FINDING OF DELINQUENCY OF THE MINOR.

(B) ACTION SHALL BE COMMENCED AND HEARD AS IN OTHER CIVIL ACTIONS FOR DAMAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977.

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A BILL ENTITLED

AN ACT concerning 29
Separation of Minors From Adult Mental Patients 32
FOR the purpose of providing for separate housing and treatment of children and adult patients in certain institutions under certain circumstances. 35

BY adding to 41
Article 59 - Mental Hygiene 45
Section 36A 46
Annotated Code of Maryland 49
(1972 Replacement Volume and 1976 Supplement) 50

BY adding to 53
Article - Courts and Judicial Proceedings 56
Section 3-823(c) 57
Annotated Code of Maryland 60
(1974 Volume and 1976 Supplement) 61

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Section 36A be and it is hereby added to Article 59 - Mental Hygiene, of the Annotated Code of Maryland (1972 Replacement Volume and 1976 Supplement) to read as follows: 64
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Article 59 - Mental Hygiene 74

36A. 77

ANY CHILD UNDER 18 YEARS OF AGE ADMITTED, COMMITTED, OR TRANSFERRED TO A FACILITY SHALL BE HOUSED AND TREATED SEPARATELY FROM ADULT PATIENTS UNLESS: 79
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A PARENT, GUARDIAN, OR CUSTODIAN, INCLUDING THE HOSPITAL FACILITY OR A PUBLIC OR PRIVATE AGENCY HAVING COMMITMENT OR GUARDIANSHIP RIGHTS, PETITIONS THE JUVENILE COURT HAVING JURISDICTION OR VENUE, FOR A RULING THAT A PROGRAM OF CARE AND TREATMENT WITH ADULT PATIENTS IS IN 82
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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Numerals at right identify computer lines of text.

THE BEST INTEREST OF THE CHILD.

SECTION 2. AND BE IT FURTHER ENACTED, That new Section 3-823(c) be and it is hereby added to Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) to read as follows:

Article - Courts and Judicial Proceedings

3-823.

(C) ANY CHILD UNDER 18 YEARS OF AGE COMMITTED OR TRANSFERRED TO ANY FACILITY DESCRIBED IN ARTICLE 59, §31 SHALL BE HOUSED AND TREATED SEPARATELY FROM ADULT PATIENTS UNLESS THE COURT RULES THAT A PROGRAM OF CARE AND TREATMENT WITH ADULT PATIENTS WOULD BE IN THE CHILD'S BEST INTEREST.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977.

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A BILL ENTITLED

AN ACT concerning

Juvenile Causes - Juvenile Code

FOR the purpose of clarifying and revising certain provisions in the juvenile causes law; defining terms; requiring certain notice of filing a petition; providing for an intake authorization to file a petition under certain circumstances; amending certain venue and jurisdiction provisions; prescribing the manner of notification of certain intake decisions; providing for certain affirmative action of the regional supervisor on certain matters; providing for a certain time frame for certain preliminary inquiries; amending and adding certain provisions concerning confidentiality and the use of certain information and evidence; changing and clarifying certain procedures in juvenile causes; amending the provisions concerning detention of children and place of detention; making style changes; and relating generally to juvenile causes.

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 3-801(f) and (r), 3-808, 3-809(a) (1), 3-810(b), (c), (h) and (i), 3-811(b), 3-812(b) and (d), 3-815(c) and (e), 3-819(a) and (b), 3-820(b), 3-823(a), 3-824(a) and (b), 3-828(c), and 3-829(c) and (e)

Annotated Code of Maryland

(1974 Volume and 1976 Supplement)

BY repealing and reenacting, with amendments,

Article 52A - Juvenile Services

Section 12(c)

Annotated Code of Maryland

(1972 Replacement Volume and 1976 Supplement)

BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Numerals at right identify computer lines of text.

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Article 52A - Juvenile Services
Section 12(d)
Annotated Code of Maryland
(1972 Replacement Volume and 1976 Supplement)

BY adding to

Article - Courts and Judicial Proceedings
Section 3-804 (f), 3-810 (j), and 3-811(d)
Annotated Code of Maryland
(1974 volume and 1976 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Sections 3-801(f) and (r), 3-808, 3-809(a) (1), 3-810 (b), (c), (h) and (i), 3-811(b), 3-812(b) and (d), 3-815(c) and (e), 3-819(a) and (b), 3-820(b), 3-823(a), 3-824(a) and (b), 3-828(c), and 3-829(c) and (e) of Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) be and they are hereby repealed and reenacted, with amendments, to read as follows:

Article - Courts and Judicial Proceedings

3-801.

(f) "Child in need of supervision" is a child who requires guidance, treatment, or rehabilitation [because] AND

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

(2) He is habitually disobedient, ungovernable, and beyond the control of the person having custody of him [without substantial fault on the part of that person]; or

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

(4) He has committed an offense applicable only to children.

(r) "Shelter care" means the temporary care of children in physically unrestricting facilities[, pending court disposition].

3-808.

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(a) Except as provided in subsection (b) and (c), the [proceedings under this subtitle] PETITION, IF ANY, shall be [brought] FILED in the county where the child resides or is domiciled.

(b) If delinquency OR VIOLATION OF SECTION 3-831 is alleged, the [proceedings] PETITION, IF ANY, shall be [brought] FILED in the county where the alleged [delinquent] act occurred subject to transfer as provided in § 3-809.

(c) If the alleged delinquent act is escape or attempted escape from a training school or similar facility operated by the Juvenile Services Administration, the [proceedings] PETITION, IF ANY, shall be [brought] 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 § 3-809 to the court exercising jurisdiction over the child at the time of the alleged act.

3-809.

(a) (1) If [the proceedings are brought] A PETITION IS FILED 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 from a training school or similar facility operated by the Juvenile Services Administration.

3-810.

(b) In considering the complaint, the intake officer shall make a preliminary inquiry WITHIN 15 DAYS as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. He may, after such inquiry and in accordance with this section, (i) authorize the filing of a petition, (ii) conduct a further investigation into the allegations of the complaint, (iii) propose an informal adjustment of the matter, or (iv) refuse authorization to file a petition.

(c) The intake officer may authorize the filing of a petition if, based upon the complaint and his

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preliminary inquiry, he concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child. The intake officer shall inform the parties, AND IF PRACTICABLE, THE COMPLAINANT, preferably in person, of his decision to authorize the filing of a petition and the reasons for his decision. 178

(h) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the complainant [may], within 15 days of PERSONAL NOTICE TO HIM, OR THE MAILING TO HIS LAST KNOWN ADDRESS OF the denial, MAY submit the complaint for review by the State's attorney. The State's attorney shall [promptly] review the complaint. If, within 15 days, he concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, he may authorize the filing of a petition. 184-191

(i) If the complaint does not allege the commission of a delinquent act, the complainant [may], within 15 days of PERSONAL NOTICE TO HIM OR THE MAILING TO HIS LAST KNOWN ADDRESS OF the denial, MAY submit the complaint for review by the regional supervisor of the intake officer. The supervisor shall [promptly] review the complaint. If, within 15 days, he concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, he may [authorize] DIRECT the filing of a petition in writing. 194-201

3-811.

(b) Any information secured or statement made by a participant during a preliminary OR FURTHER inquiry pursuant to § 3-810 or a study pursuant to § 3-818 may not be admitted in evidence in any ADJUDICATORY hearing EXCEPT ON THE ISSUE OF RESPONDENT'S COMPETENCE TO PARTICIPATE IN THE PROCEEDINGS AND HIS LEGAL RESPONSIBILITY FOR HIS ACTS [prior to the adjudication or in a criminal proceeding against him] WHERE A PETITION ALLEGING DELINQUENCY HAS BEEN FILED, OR IN A CRIMINAL PROCEEDING prior to conviction. 203-209

3-812.

(b) Petitions alleging delinquency OR VIOLATION OF SECTION 3-831 shall be prepared and filed by the State's attorney. All other petitions shall be prepared and filed by the intake officer. 213-217

(d) The State's attorney, upon assigning his reasons, may dismiss IN OPEN COURT a petition alleging 219-220

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delinquency [in open court]. 220

3-815.

(c) If the child is not released, the intake officer shall immediately file a petition to authorize continued detention or shelter care. A hearing on the petition shall be held not later than the next court day, unless extended by the court upon good cause shown. 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, his parents, guardian, or custodian. Detention and shelter care shall not be ordered for a period of more than 30 days unless an adjudicatory OR WAIVER hearing is held. 222-232

(e) A child alleged to be in need of supervision or in need of assistance may not be placed in detention. If the child is alleged to be in need of assistance by reason of a mental handicap, he may be placed in shelter care facilities maintained or licensed by the Department of Health and Mental Hygiene or if these facilities are not available, then in a private home or facility [located in Maryland and] approved by the court. If the child is alleged to be in need of assistance for any other reason, or in need of supervision, he may be placed in shelter care facilities maintained or approved by the [Department of Employment and Social Services] SOCIAL SERVICES ADMINISTRATION, or the Juvenile Services Administration, or in a private home or shelter care facility approved by the court. 235-246

3-819.

(a) After a petition has been filed, and unless jurisdiction has been waived, the court shall hold an adjudicatory hearing. [The adjudicatory hearing is solely to determine the merits of the allegations of the petition.] 248-252

(b) Before a child is adjudicated delinquent, the allegations in the petition THAT A CHILD HAS COMMITTED A DELINQUENT ACT must be proved beyond a reasonable doubt. An uncorroborated confession made by a child out of court is not sufficient proof of [delinquency] THE DELINQUENT ACT. 254-257

3-820.

(b) The overriding consideration in making a disposition is a program of treatment, training, and rehabilitation best suited to the physical, mental, and moral welfare of the child consistent with the public 259-263

interest. The court may: 263

(1) 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; 265 266 267

(2) Commit the child to the custody or under the guardianship of the Juvenile Services Administration, a local department of social services, the Department of Health and Mental Hygiene, or a public or licensed private agency. 269 270 271

(3) ORDER THE PARENTS, GUARDIAN, OR CUSTODIAN OF THE CHILD TO PARTICIPATE IN COUNSELING OR OTHER REHABILITATIVE SERVICES THAT ARE IN THE BEST INTEREST OF THE CHILD AND THE FAMILY. 273 274 275

3-823. 277

(a) A child may not be DETAINED AT, OR committed or transferred to a penal institution or other facility used primarily for the confinement of adults charged with or convicted of a crime, except pursuant to § 3-316 (b). 279 280 281

3-824. 283

(a) An adjudication of a child pursuant to this subtitle is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction. However, an adjudication of a child as delinquent by reason of his violation of the State Vehicle Laws shall, [upon order of the court,] be reported by the clerk of the court to the Motor Vehicle Administration, [who may] WHICH SHALL assess points pursuant to article 66 1/2, § 6-402 against the child, in the same manner and to the same effect as if the child had been convicted of the offense. 286 287 288 289 290 291 293 294

(b) An adjudication and disposition of a child pursuant to this subtitle are not admissible as evidence against the child [in any criminal proceeding prior to conviction, or in any other proceeding.]: 297 298 299

(1) IN ANY CRIMINAL PROCEEDING PRIOR TO CONVICTION; OR 301

(2) IN ANY ADJUDICATORY HEARING ON A PETITION ALLEGING DELINQUENCY; OR 303

(3) IN ANY CIVIL PROCEEDING NOT CONDUCTED UNDER THIS SUBTITLE EXCEPT PROCEEDINGS UNDER ARTICLE 31B. 305 306

3-828. 308

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. [After a child has reached 21 years of age, the court may, upon petition or on its own motion, expunge records of the child in a case in which an adjudication of the child as delinquent, in need of supervision or in need of assistance has not been made.] If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause shown. 310 311 312 313 314 315 316 317 318

3-829. 320

(c) A judgment of restitution against a parent may not be entered unless the parent has been afforded a reasonable opportunity to be heard and to present appropriate evidence in his behalf. A hearing under this section may be held as part of [a] AN ADJUDICATORY, OR disposition hearing for the child. 322 323 324 325

(e) The court may order the child who, wilfully or maliciously, steals, damages, or destroys the property of another or inflicts personal injury on another to make the restitution expenses himself if that is feasible considering the age and circumstances of the child; and if this is ordered, the liability of the child precedes the liability of the parent. The court may, in the alternative, enter a judgment [or] OF restitution against the child. 327 328 329 330 331 332

SECTION 2. AND BE IT FURTHER ENACTED, That Section 12(c) of Article 52A - Juvenile Services, of the Annotated Code of Maryland (1972 Replacement Volume and 1976 Supplement) be and it is hereby repealed and reenacted, with amendments, to read as follows: 335 336 337 338

Article 52A - Juvenile Services 342

12. 345

(c) The Maryland Children's Center, subject to the rules and regulations adopted and promulgated by the State Department of Juvenile Services, shall accept custody of children from the juvenile courts AND INTAKE OFFICERS for the purpose of providing diagnostic evaluation AND DETENTION SERVICES. [The] ANY evaluation is to be performed within [thirty] 30 days and the child is to be returned to the court with the evaluation record and appropriate treatment recommendations. [The juvenile 347 348 349 351 352 353 354

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courts, and/or the Department of Juvenile Services, shall use the Maryland Children's Center for purposes of evaluation only and not for purposes of detention.]

SECTION 3. AND BE IT FURTHER ENACTED, That new section 12(d) be and it is hereby added to Article 52A - Juvenile Services, of the Annotated Code of Maryland (1972 Replacement Volume and 1976 Supplement) to read as follows:

Article 52A - Juvenile Services

12.

(D) UNLESS APPROVED BY THE DEPARTMENT OF JUVENILE SERVICES, A FACILITY, OPERATED BY A LOCAL JURISDICTION, MAY NOT BE USED AS A DETENTION HOLDOVER CENTER FOR CHILDREN ALLEGED OR ADJUDICATED AS DELINQUENT.

SECTION 4. AND BE IT FURTHER ENACTED, That new Sections 3-804(f), 3-810(j), and 3-811(d) be and they are hereby added to Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1976 Supplement) to read as follows:

Article - Courts and Judicial Proceedings

3-804.

(F) IN THE EVENT THE COURT DOES NOT HAVE JURISDICTION, PURSUANT TO (D) (2) AND (3) OF THIS SUBTITLE, ANY PERSON 16 TO 18 YEARS OF AGE CHARGED WITH VIOLATING OR ARRESTED ON A BENCH WARRANT ISSUED PURSUANT TO VIOLATION OF ANY LAW OR ORDINANCE GOVERNING THE USE OR OPERATION OF A MOTOR VEHICLE OR A BOAT MAY ONLY BE DETAINED OR PLACED IN SHELTER CARE PURSUANT TO THE PROVISIONS OF THIS SUBTITLE. UPON CONVICTION OF THE OFFENSE, THE CRIMINAL COURT IN ITS DISCRETION MAY SENTENCE HIM PURSUANT TO THE PROVISIONS OF §§3-820(B) AND 3-825 CONCERNING DISPOSITION AND COMMITMENT.

3-810.

(J) IF THE COMPLAINT ALLEGES THE COMMISSION OF A DELINQUENT ACT BY MORE THAN ONE CHILD, THE INTAKE OFFICER SHALL AUTHORIZE THE FILING OF A PETITION ON EACH OF THE CHILDREN ALLEGED IN THE COMPLAINT* UNLESS THERE EXIST EXCEPTIONAL CIRCUMSTANCES AS TO AGE OR APPARENT PHYSICAL OR MENTAL CONDITION OF A CHILD. IF THE INTAKE OFFICER FINDS THAT SUCH EXCEPTIONAL CIRCUMSTANCES EXIST AND REFUSES TO AUTHORIZE THE FILING OF A PETITION HE SHALL SET FORTH HIS REASONS IN WRITING AND SHALL EXPLAIN THE

* IF HE AUTHORIZES THE FILING OF A PETITION ON ANY ONE OR MORE OF SAID CHILDREN,

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REASONS TO ALL PERSONS ALLEGED TO BE INVOLVED IN THE OFFENSE AND TO THE VICTIM.

3-811.

(D) IF JURISDICTION IS NOT WAIVED, ANY STATEMENT MADE BY A CHILD, HIS PARENTS, GUARDIAN, OR CUSTODIAN AT A WAIVER HEARING MAY NOT BE ADMITTED IN EVIDENCE IN ANY ADJUDICATORY HEARING UNLESS A DELINQUENT OFFENSE OF PERJURY IS ALLEGED, AND THE STATEMENT IS RELEVANT TO THAT CHARGE AND IS OTHERWISE ADMISSIBLE.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977.

END

7. 11. 1941