

HOUSE BILL 36

E3

01r0669

(PRE-FILED)

By: **Delegates Barron, D.M. Davis, and Henson**

Requested: September 13, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 10, 2020

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Proceedings – Fines, Fees, and Costs**

3 FOR the purpose of repealing certain provisions of law authorizing the juvenile court to
4 impose certain civil fines against a child found to have committed certain violations;
5 repealing a certain provision of law authorizing the juvenile court to impose certain
6 court costs against a juvenile respondent or the respondent's parent, guardian, or
7 custodian under certain circumstances; repealing a provision of law authorizing the
8 juvenile court to assess against any party or a parent of a certain child compensation
9 for the services of an attorney appointed to represent the child in a certain action;
10 repealing a provision of law authorizing a court to order a parent to pay a certain
11 sum to cover the support of a certain child; prohibiting a court from ordering a certain
12 parent, guardian, custodian, or child to pay a certain fine, fee, cost, or sum of money
13 for a certain purpose; prohibiting the assessment of compensation for the services of
14 an attorney against a parent, guardian, custodian, or child in a delinquency
15 proceeding; providing that the balance of certain fines, fees, or costs will become
16 unenforceable and uncollectable on a certain date; requiring a certain portion of a
17 certain judgment to be vacated on a certain date; making conforming changes; and
18 generally relating to fines, fees, and costs in certain juvenile proceedings.

19 BY repealing and reenacting, with amendments,
20 Article – Courts and Judicial Proceedings
21 Section 3–8A–19(e), (h), (i), (j), and (k), 3–8A–20, and 3–8A–32
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing
 2 Article – Courts and Judicial Proceedings
 3 Section 3–8A–19(g) and 3–8A–29
 4 Annotated Code of Maryland
 5 (2013 Replacement Volume and 2019 Supplement)

6 BY adding to
 7 Article – Courts and Judicial Proceedings
 8 Section 3–8A–29
 9 Annotated Code of Maryland
 10 (2013 Replacement Volume and 2019 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 12 That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 3–8A–19.

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

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

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

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

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

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

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

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

6 2. If the child is younger than 16 years of age on the date of
7 the disposition, on the date the child reaches the child's 16th birthday.

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

10 (i) Counsel the child or the parent or both, or order the child to
11 participate in an alcohol or a substance abuse education or rehabilitation program that is
12 in the best interest of the child; **OR**

13 (ii) [Impose a civil fine of not more than \$25 for the first violation
14 and a civil fine of not more than \$100 for the second and subsequent violations; or

15 (iii)] Order the child to participate in a supervised work program for
16 not more than 20 hours for the first violation and not more than 40 hours for the second
17 and subsequent violations.

18 (3) (i) The provisions of paragraphs (1) and (2) of this subsection do not
19 apply to a child found to have committed a violation of § 10–108 of the Criminal Law Article.

20 (ii) In making a disposition on a finding that the child has committed
21 a violation of § 10–108 of the Criminal Law Article, the court may:

22 1. Counsel the child or the parent or both, or order the child
23 to participate in a smoking cessation clinic, or other suitable presentation of the hazards
24 associated with tobacco use that is in the best interest of the child; **OR**

25 2. [Impose a civil fine of not more than \$25 for the first
26 violation and a civil fine of not more than \$100 for a second or subsequent violation; or

27 3.] Order the child to participate in a supervised work
28 program for not more than 20 hours for the first violation and not more than 40 hours for
29 a second or subsequent violation.

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

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

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

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

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

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

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

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

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

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

23 [(g) The court may impose reasonable court costs against a respondent, or the
24 respondent's parent, guardian, or custodian, against whom a finding of delinquency has
25 been entered under the provisions of this section.]

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

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

31 (1) The child has a mental disorder;

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

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

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

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

9 (1) The child is mentally retarded;

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

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

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

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

30 (3) If, at any time after the commitment of the child to a State mental
31 retardation facility under this section, the individualized plan of habilitation developed
32 under § 7-1006 of the Health – General Article recommends that a child no longer meets
33 the standards specified in subsection **[(j)] (I)** of this section, then the court shall grant a
34 hearing to review the commitment order. The court may grant a hearing at any other time
35 for the purpose of determining if the standards specified in subsection **[(j)] (I)** of this section
36 continue to be met.

1 3–8A–20.

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

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

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

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

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

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

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

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

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

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

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

28 (v) That among the child's rights at any hearing are the right to call
29 witnesses on the child's behalf, the right to confront and cross-examine witnesses, the right
30 to obtain witnesses by compulsory process, and the right to require proof of any charges.

31 (c) [Compensation for the services of an attorney appointed to represent a child
32 in an action under this subtitle may be assessed by the court against any party or against
33 a parent of the child.

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

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

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

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

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

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

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

19 [3-8A-29.

20 After giving the parent a reasonable opportunity to be heard, the court may order
21 either parent or both parents to pay a sum in the amount the court directs to cover wholly
22 or partly the support of the child under this subtitle.]

23 **3-8A-29.**

24 **A COURT MAY NOT ORDER A PARENT, GUARDIAN, CUSTODIAN, OR CHILD TO**
25 **PAY:**

26 **(1) A FINE, FEE, OR COST UNDER THIS SUBTITLE; OR**

27 **(2) A SUM OF MONEY TO COVER THE SUPPORT OF A CHILD UNDER**
28 **THIS SUBTITLE.**

29 3-8A-32.

30 (a) In addition to any requirements relating to the appointment of counsel for
31 children, at any time during the pendency of any action under this subtitle, where it
32 appears to the court that the protection of the rights of a child requires independent

1 representation, the court may, upon its own motion, or the motion of any party to the action,
 2 appoint an attorney to represent the interest of the child in that particular action. Such
 3 actions include but are not limited to those involving a child in need of supervision,
 4 delinquent child, or mentally handicapped child.

5 (b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 6 **SUBSECTION**, compensation for the services of the attorney under this section may be
 7 assessed against any party or parties to the action.

8 (2) **COMPENSATION FOR THE SERVICES OF AN ATTORNEY UNDER**
 9 **THIS SECTION MAY NOT BE ASSESSED AGAINST A PARENT, GUARDIAN, CUSTODIAN,**
 10 **OR CHILD IN A DELINQUENCY PROCEEDING.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That on the effective date of this
 12 Act, the balance of any court-ordered fines, fees, or costs previously assessed under the
 13 provisions of law repealed by this Act shall be unenforceable and uncollectable and the
 14 portion of any judgment that imposed those fines, fees, or costs shall be vacated.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 16 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.