

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 360
Judiciary

(Delegate Valentino-Smith)

Juvenile Law - Informal Adjustment

This bill authorizes a juvenile court, after a petition is filed, to refer the matter to the Department of Juvenile Services (DJS) for an informal adjustment on the motion of any party if (1) the time for an adjudicatory hearing under the applicable Maryland Rule has been waived; (2) there has not been a prior unsuccessful informal adjustment of the matter; and (3) the child, the child's attorney, and the State's Attorney all consent to the motion. If an informal adjustment is successfully completed, the petition must be dismissed. On notice from DJS that an informal adjustment has not been successfully completed, the juvenile court must proceed with the petition. By December 31, 2022, and annually thereafter, DJS must report to the General Assembly on the number of cases referred by the court to DJS for informal adjustment and the outcomes of the children referred. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect the operations or finances of the Judiciary, DJS, or the Office of the Public Defender.

Local Effect: The bill is not anticipated to materially affect the operations or finances of the circuit courts or State's Attorneys' offices.

Small Business Effect: None.

Analysis

Current Law: After specified statutory requirements have been satisfied, a DJS intake officer may (1) deny authorization to file a petition and/or peace order request in the juvenile court or (2) authorize the filing of a petition and/or peace order request. An intake

officer may also propose an informal adjustment if, based on the complaint and the inquiry, the officer concludes that a juvenile court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.

Informal Adjustment Procedures

The intake officer must propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted. The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure. If the intake officer decides to have an intake conference, the child and the child's parent or guardian must appear at the conference.

If the intake officer proposes an informal adjustment regarding a complaint that alleges the commission of an act that would be a felony if committed by an adult or a violation of specified firearms-related offenses, the intake officer must immediately forward the complaint and the intake file, as specified, to the State's Attorney for review. After a preliminary review, as specified, the State's Attorney must either file a petition and/or a peace order request; dismiss the complaint; or refer the complaint to DJS for informal disposition.

During an informal adjustment process, the child is subject to such supervision as the intake officer deems appropriate. The process may not exceed 90 days unless the time is extended by the court or the intake officer determines that additional time is necessary for the child to complete a program that is part of the informal adjustment process. If, at any time before the completion of an agreed upon informal adjustment, the intake officer believes that it cannot be completed successfully, the intake officer must either authorize the filing of a petition and/or a peace order request or deny authorization to file a petition and/or a peace order request.

Petition Procedures

Under the Maryland Rules, after a petition is filed, the juvenile court must hold an adjudicatory hearing to determine whether the allegations within a petition are true, unless the court has waived its jurisdiction or entered a stet. An adjudicatory hearing must generally begin within 60 days after the earlier of the service of the delinquency petition on the respondent or the entry of appearance of counsel. If the respondent is in detention, community detention, or shelter care, the adjudicatory hearing must begin within 30 days after the date on which the court ordered continued detention, community detention, or shelter care. If a waiver petition (to transfer the case to adult court) has been filed, an adjudicatory hearing must begin within 30 days after the waiver petition is denied or

withdrawn. If the respondent is in detention, community detention, or shelter care, the adjudicatory hearing must begin within 14 days after the waiver petition was denied or withdrawn. The time within which the adjudicatory hearing must be held may be extended, for extraordinary cause shown, as specified.

Generally, a disposition hearing is held to determine whether a child who has been adjudicated delinquent needs or requires the court's guidance, treatment, or rehabilitation and, if so, the nature of the guidance, treatment, or rehabilitation. Among other options, and subject to specified limitations, a juvenile court may:

- place the child on probation or under supervision in the child's own home or in the custody or under the guardianship of a relative or other fit person, on terms the court deems appropriate, including community detention;
- commit the child to the custody or guardianship of DJS or other agency on terms that the court considers appropriate, including designation of the type of facility where the child is to be accommodated; or
- order the child or the child's parents, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and the family.

Additional Comments: Although Maryland Rule 11-114(b) is cited in the bill, Maryland Rule 11-421 (effective January 1, 2022) is the applicable Rule governing adjudicatory hearings for delinquency proceedings.

Additional Information

Prior Introductions: HB 169 of 2021 received a hearing in the House Judiciary Committee, but no further action was taken. HB 842 of 2020, as amended, passed the House and was referred to the Senate Judicial Proceedings Committee. No further action was taken. Its cross file, SB 706, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Similar bills were also introduced in 2019 and 2015.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Department of Legislative Services

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