

# SENATE BILL 823

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9lr1861  
CF 9lr1859

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By: **Senator Smith**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

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, or custodian to pay a certain fine, fee, cost, or sum of money for a  
13 certain purpose; making conforming changes; and generally relating to fines, fees,  
14 and costs in certain juvenile proceedings.

15 BY repealing and reenacting, with amendments,  
16 Article – Courts and Judicial Proceedings  
17 Section 3–8A–19(e), (h), (i), (j), and (k) and 3–8A–20  
18 Annotated Code of Maryland  
19 (2013 Replacement Volume and 2018 Supplement)

20 BY repealing  
21 Article – Courts and Judicial Proceedings  
22 Section 3–8A–19(g) and 3–8A–29  
23 Annotated Code of Maryland  
24 (2013 Replacement Volume and 2018 Supplement)

25 BY adding to  
26 Article – Courts and Judicial Proceedings  
27 Section 3–8A–29  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2013 Replacement Volume and 2018 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–8A–19.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24                   (1)     The child has a mental disorder;

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

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

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

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

1 (1) The child is mentally retarded;

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

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

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

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

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

29 3-8A-20.

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

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

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

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

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

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

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

10 (i) The nature of the allegations and the proceedings, and the range  
11 of allowable dispositions;

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

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

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

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

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

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

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

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

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

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

5                   (ii)    After entry of its appearance, the Office of the Public Defender  
6 shall verify eligibility for continued public defender representation in accordance with §  
7 16–210 of the Criminal Procedure Article and the Maryland Rules.

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

10 ~~3–8A–29.~~

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

14 ~~3–8A–29.~~

15           **A COURT MAY NOT ORDER A PARENT, GUARDIAN, OR CUSTODIAN TO PAY:**

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

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

19           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2019.