

HB1325/802716/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1325
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “Program;” insert “authorizing the juvenile court to make certain additional dispositions on a certain petition under certain circumstances;”; in line 12, after “petition” insert “or a child in need of supervision petition”; and in line 14, after “complaint;” insert “prohibiting a certain child from being placed in detention or certain other facilities; making a clarifying change;”.

On page 2, in line 1, after “Section” insert “3-8A-01(a), (h), and (n) and”; in the same line, strike “and 3-8C-06(d)”; in line 11, after “Section” insert “3-8A-15(e) and (g), 3-8A-19(d),”; and in the same line, strike “and 3-8C-04” and substitute “3-8C-04, 3-8C-06(d), and 3-8C-07”.

AMENDMENT NO. 2

On page 2, after line 24, insert:

“3-8A-01.

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

(h) (1) “Community detention” means a program monitored by the Department of Juvenile Services in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention.

(2) “Community detention” includes electronic monitoring.

(Over)

(n) “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.”.

On page 3, after line 18, insert:

“3-8A-15.

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

(2) A court order under this paragraph shall:

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

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

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

1. Shelter care; or

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

(ii) **1. [If] EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF a child who has been released by the Department of Juvenile Services or the court into community detention violates the conditions of community detention, and it is necessary to protect the child or others, an intake officer may authorize the detention of the child.**

2. A CHILD ALLEGED TO BE DELINQUENT AS A RESULT OF THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-06.1 OF THIS TITLE AND WHO VIOLATES THE CONDITIONS OF COMMUNITY DETENTION MAY NOT BE PLACED IN DETENTION.

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

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

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

(g) **(1) A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.**

(2) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CHILD ALLEGED TO BE DELINQUENT AS A RESULT OF THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-06.1 OF THIS TITLE MAY NOT BE PLACED IN:

1. DETENTION;

2. A STATE MENTAL HEALTH FACILITY; OR

3. A SHELTER CARE FACILITY THAT IS NOT OPERATING IN COMPLIANCE WITH APPLICABLE STATE LICENSING LAWS.

(II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PROHIBIT A CHILD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM BEING PLACED IN COMMUNITY DETENTION IN ACCORDANCE WITH THIS SECTION.

3-8A-19.

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

(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, including community detention;

(ii) Subject to the provisions of [paragraph (2)] PARAGRAPHS (2) AND (6) of this subsection, commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Department of Health and Mental Hygiene, or a public or licensed private agency on terms that the court considers appropriate to meet the priorities set forth in § 3-8A-02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3-8A-24 of this subtitle; or

(iii) Order the child, parents, guardian, or custodian of the child to participate in rehabilitative services that are in the best interest of the child and the family.

(2) In addition to the provisions of paragraph (1) of this subsection, in making a disposition on a petition, the court may adopt a treatment service plan, as defined in § 3–8A–20.1 of this subtitle.

(3) A child committed under paragraph (1)(ii) of this subsection may not be accommodated in a facility that has reached budgeted capacity if a bed is available in another comparable facility in the State, unless the placement to the facility that has reached budgeted capacity has been recommended by the Department of Juvenile Services.

(4) The court shall consider any oral address made in accordance with § 11–403 of the Criminal Procedure Article or any victim impact statement, as described in § 11–402 of the Criminal Procedure Article, in determining an appropriate disposition on a petition.

(5) (i) If the court finds that a child is in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.

(ii) The notice may not include any order or pleading related to the child in need of supervision case.

(6) A CHILD FOUND DELINQUENT AS A RESULT OF THE FAILURE TO COMPLY WITH AN ORDER ISSUED UNDER § 3-8C-01.6 OF THIS TITLE MAY NOT BE PLACED IN A SECURE FACILITY.”

AMENDMENT NO. 3

On page 4, in line 23, strike “order” and substitute “:

(Over)

(1) ORDER;

and in lines 24, 25, 26, 27, and 28, strike “(1)”, “(2)”, “(3)”, “(4)”, and “(5)”, respectively, and substitute “**(I)**”, “**(II)**”, “**(III)**”, “**(IV)**”, and “**(V)**”, respectively.

On page 5, in line 1, strike “(6)” and substitute “**(VI)**”; and in the same line, after “court” insert “**OR;**”

(2) WITH THE AGREEMENT OF THE PERSON WITH LEGAL CUSTODY OR CARE AND CONTROL OF THE CHILD:

(I) PLACE THE CHILD IN A RESPITE HOME;

(II) PLACE THE CHILD TEMPORARILY IN THE CUSTODY OR CARE AND CONTROL OF ANOTHER RESPONSIBLE ADULT SELECTED BY THE PERSON WITH LEGAL CUSTODY OR CARE AND CONTROL OF THE CHILD; OR

(III) PROVIDE FOR ANY OTHER SERVICES DESIGNED TO REDUCE THE CHILD’S TRUANT BEHAVIOR”.

AMENDMENT NO. 4

On page 5, in line 3, before “**THE**” insert “**(A)**”; and after line 9, insert:

“(B) THE COURT MAY FORWARD A COMPLAINT TO AN INTAKE OFFICER FOR THE FILING OF A CHILD IN NEED OF SUPERVISION PETITION IF THE COURT FINDS THAT THE CHILD IS REQUIRED BY LAW TO ATTEND SCHOOL AND IS HABITUALLY TRUANT.

A criminal defendant under [this subtitle] § 7-301(E-1) OF THE EDUCATION ARTICLE is subject to:

(1) Any conditions of probation authorized under § 6-220 of the Criminal Procedure Article; and

(2) Any additional condition of probation that would promote the child's attendance in school."

AMENDMENT NO. 5

On page 6, in line 3, strike "2010" and substitute "2008"; strike beginning with "DURING" in line 7 down through "2012" in line 8 and substitute "DURING EACH OF FISCAL YEARS 2008 AND 2009"; in line 19, strike "7" and substitute "5"; and in the same line, strike "2011" and substitute "2009".