

JUVENILE

Purposes of juvenile Court

Md Code, Cts & Jud Proc § 3-8A-02

Purposes of Juvenile Justice system are to:

- 1) Balance public safety, accountability of the child to the victim and competency and character development to assist children in becoming responsible members of society.
- 2) To hold parents of delinquent children responsible for the child's behavior and accountable to the victim and community and
- 3) To hold parents of children found to be delinquent or in need of supervision responsible for remedying the circumstances that required court intervention
- 4) To provide for care, protection and wholesome mental and physical development of children found delinquent., to provide a program of treatment, training and rehabilitation consistent with the child's best interest and the public interest
- 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;
- (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;
- (7) To provide to children in State care and custody:
 - (i) A safe, humane, and caring environment; and
 - (ii) Access to required services; and
- (8) To provide judicial procedures for carrying out the provisions of this subtitle.

Jurisdiction

Scope

The Juvenile Court has exclusive original jurisdiction over children alleged to be delinquent unless excepted by statute. § 3-8A-03

The court also has jurisdiction over proceedings under the Interstate Compact on Juveniles and adults under § 3-8A-30.

Determination of Juvenile or Criminal Jurisdiction

Md Code, Cts & Jud Proc §3-8A-06

There is no presumption of incapacity for any child over seven

Md Code, Cts & Jud Proc §3-8A-05

If a child is 15 or less, the child is in Juvenile court,

Can only waive into criminal court if charged with a capital offense

If a child is between 15-18 and charged with 1st Degree murder, they start in and must remain in criminal court

If a child is 16-18 they start in, but don't necessarily stay in, criminal court, if they commit:

- Abduction & kidnapping,
- Second degree murder,
- Voluntary manslaughter,
- Second degree rape
- Second & third degree sexual offense,
- Robbery with dangerous weapon,
- Handgun offenses,
- Carjacking,
- First degree assault,
- Vehicle & boat offenses

A child is ineligible for transfer into juvenile court if previously convicted of a capital offense or one of the above. A child can not transfer from criminal to juvenile if previously adjudicated delinquent after transfer.

If a child is 16-18, and starts in juvenile court, the child is eligible for waiving into criminal court

Factors to determine discretionary jurisdiction

Factors to consider when waiving from juvenile court to criminal court and vice versa

Standard is preponderance of evidence

- 1) Age of juvenile
- 2) Mental & physical condition of juvenile
- 3) Amenability of juvenile to juvenile treatment
- 4) Nature of offense & participation
- 5) Public safety

When waiving from juvenile to criminal, judge or master assumes facts in petition are true (assume guilt)

When transferring from criminal to juvenile, judge does not assume facts alleged are true (assume innocence)

Competency for adjudication

The court can at any time during proceedings, following motion by court or party, stay proceedings and order competency evaluation. Upon completion of the evaluation, the court shall hold a competency hearing. § 3-8A-17.1.

Delinquency Petition

Md Code, Cts & Jud Proc § 3-818

Content

Petition must allege delinquent acts, including facts and elements of what would be crime if committed by adult.

Hearings

Nature of hearings, applicability of criminal rules of procedure

Hearings are civil in nature and not criminal. No child shall be convicted of a criminal act in the juvenile court. Rules of criminal procedure do not apply in juvenile court.

Constitutional requirements which apply equally to state criminal trials and to the adjudicative phase of state juvenile court delinquency proceedings are the rights to appropriate notice, to counsel, to confrontation and to cross-examination, and the privilege against self-incrimination.

In re Carter, 20 Md.App. 633, (1974)

If the hearing is conducted by a judge and the judge's order includes placement outside of the home, the judge is required to announce in open court and file with the clerk a statement of the reasons for the placement. A commitment ordered by a master is subject to the approval of the court.

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 as permitted by statute when a child is transferred to another court for criminal prosecution.

Md Code, Cts & Jud Proc § 3-823

Adjudicatory Hearing

If jurisdiction is not waived by the juvenile court, the court must hold an adjudicatory hearing within 60 days. If the child is detained, the hearing must be within 30 days. If a waiver petition is filed, a waiver hearing must be held within 30 days.

Disposition Hearing

Disposition hearing must be held immediately after the adjudicatory hearing unless the court or party moves that the hearing be delayed. Hearing must take place within 30 days of the adjudicatory hearing.

Applicability of Constitutional Rights

Counsel

A child is entitled to the assistance of counsel at every stage of any juvenile proceeding except for violation of peace order. Child is allowed to waive counsel, but the court must question child in open court to determine if waiver is knowing and intelligent. The court must inform child of rights. Md Code, Cts & Jud Proc §3-8A-20

Speedy trial

In re Thomas J., 372 Md. 50 (2002)

Juveniles have right to speedy trial

Burden of Proof, due process generally

In re Winship, 397 U.S. 358 (1970)

Proof beyond reasonable doubt needed for finding of delinquency, due process also includes notice of charges, right to counsel, rights of confrontation and examination, and privilege against self-incrimination

Trial by Jury

There is no right to jury trial in Maryland in delinquency proceedings

McKeiver v. Pennsylvania, 403 U.S. 528 (1971)

Trial by jury in adjudicative stage of state juvenile court delinquency proceeding is not constitutionally required.

Double Jeopardy

In re Michael W., 367 Md. 181 (2001)

For purposes of the double jeopardy prohibition, a juvenile delinquency proceeding is treated as a criminal prosecution

Merger

In re Montrail M., 325 Md. 527 (1992)

The doctrine of merger under Maryland law, applicable in criminal cases, is also applicable in juvenile delinquency cases