



JUVENILE PROCEDURES

INDEX CODE: 1701
EFFECTIVE DATE: 02-03-23

Contents:

- I. Definitions
- II. Jurisdiction of Juvenile Court
- III. Enforcement Principles
- IV. Enforcement Guidelines & Criteria
- V. Other Procedures
- VI. Proponent Unit
- VII. Cancellation

I. DEFINITIONS

A. Adjudicatory Hearing

A hearing to determine whether the allegations in the petition, other than allegations that the child requires the court's assistance, treatment, guidance or rehabilitation, are true.

B. Adult

A person who is 18 years old or older.

C. Child or Juvenile

A person under the age of 18 years.

D. Child in Need of Assistance (CINA)

A child who requires the assistance of the court because:

1. He/she is mentally handicapped or is not receiving ordinary and proper care and attention, and
2. His/her parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and his/her problems.

However, a child will not be deemed to be in need of assistance for the sole reason he/she is being furnished non-medical remedial care and treatment recognized by state law.

E. Child in Need of Supervision (CINS)

A child who requires guidance, treatment or rehabilitation and:

1. Is required by law to attend school and is habitually truant; or
2. Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him/her; or
3. Departs himself/herself so as to injure or endanger himself/herself or others; or
4. Has committed an offense applicable only to children, such as running away from home.

F. Delinquent Offender

A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

G. Detention

The temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities.

H. Disposition Hearing

A hearing to determine: 1) whether a child needs or requires the court's assistance, guidance, treatment or rehabilitation; and if so 2) the nature of the assistance, guidance, treatment or rehabilitation.

I. Non-Offender

A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, CINA, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.

J. Shelter Care

The temporary care of children in physically unrestricting facilities.

K. Status Offender

A juvenile offender who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

II. JURISDICTION OF THE JUVENILE COURT

Juvenile proceedings are of a special nature designed to meet the problems peculiar to juveniles. The juvenile law has as its underlying concept the protection of the juvenile (Annotated Code of Md., Courts & Judicial Proceedings, Subtitle 8, Section 3-802). The Juvenile Court has exclusive original jurisdiction over a child age thirteen (13) and over alleged to have committed an act that would be a crime if committed as an adult, and a child age ten (10) and over, only when alleged to have committed an act that, if committed by an adult, would be a crime of violence (Criminal Law Article 14-101). The Juvenile Court does not have jurisdiction of children under the age of ten (10), alleged to have committed a delinquent act. The Juvenile Court also has exclusive jurisdiction over a child in need of supervision and in need of assistance. The jurisdiction of the court is concurrent with that of the District Court in any criminal case arising under the compulsory public school attendance laws of this state. An adult age eighteen (18) or above, who is charged with contributing to the delinquency of a minor, must be brought before the Juvenile Judge or Master. In these cases the District Court will have concurrent jurisdiction.

III. ENFORCEMENT PRINCIPLES

A. Primary Guideline

Officers dealing with juvenile offenders will use the least coercive among reasonable alternatives, consistent with preserving public safety, order, and individual liberty.

B. Enforcement Options

A child under 10 cannot be charged with a crime. Any child under the age of 13, but the age of 10 or over, may only be charged with a crime of violence (Criminal Law Article 14-101) listed below.

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- murder;
- rape;
- robbery under § 3-402 or § 3-403 of this article;
- carjacking;
- armed carjacking;
- sexual offense in the first degree;
- sexual offense in the second degree;
- use of a handgun in the commission of a felony except possession with intent to distribute a controlled dangerous substance under §5-602(2) of this article or other crime of violence;

- child abuse in the first degree under §3-601 of this article;
- home invasion under § 6-202(b) of this article;
- a felony offense under Title 3, Subtitle 11 of this article;
- an attempt to commit any of the crimes described above;
- assault in the first degree;
- assault with intent to murder;
- assault with intent to rape;
- assault with intent to rob;
- assault with intent to commit a sexual offense in the first degree; and
- assault with intent to commit a sexual offense in the second degree.

Juvenile offenders (age 13 and over) may be dealt with by officers of this department in one of the following ways:

1. Outright release with no further action;
2. A relatively prolonged program of treatment, on a voluntary basis, necessitating the services of one or more social agencies;
3. Counseling by the department alone, consisting principally of supervision on a voluntary basis agreed to by the parents;
4. Referral to the Fresh START program in lieu of issuance of a juvenile citation.
5. Issuance of a juvenile citation that will result in diversion to Teen Court, JOINS or Community Conferencing or a referral to the Department of Juvenile Services (DJS);
6. Formal arrest

C. Factors to be Considered

Officers will consider the following factors when making diversion decisions relating to juvenile offenders:

1. The nature of the alleged offense;
2. The age and circumstances of the alleged offender;
3. The alleged offender's record, if any;
4. The availability of community-based rehabilitation programs;
5. Whether a recommendation for diversion is or was made by a complainant or victim; and
6. The requirements of the law.

IV. ENFORCEMENT GUIDELINES & CRITERIA

Department policies on juvenile enforcement operations are governed in large part by state law. This section explains guidelines and criteria for officers in dealing with juvenile matters.

A. Field Contact

Officers should consider a juvenile's age, mental state, or other known factors or influences experienced by the juvenile during their interaction with juveniles in the field. This is especially true during non-custodial interviews of juveniles. Juveniles have the same rights as adults regarding statements and confessions. Special efforts will be made to ensure that the juvenile understands these rights.

B. Informal Release of Juveniles

Based on the age of the juvenile and circumstances of a case, officers may seek alternatives to citation or arrest in minor juvenile cases. Where victims are involved, they must be informed and agree with an officer's intention to seek an alternative. Alternatives available to officers include:

1. Verbal warnings
2. Consulting with and arranging for corrective action by parents
3. Referral to the Fresh START program for those juveniles 13 and over who have committed a crime, or those juveniles 7 and over who have committed civil offense (If a juvenile is referred to the Fresh START program, the officer will select the "START Referral" Stat Reporting box on the Event Information Card when writing the Offense/Incident Report in the records management system).

The purpose of releasing the child to the parent is to verify the child's identification and to give the officer the opportunity to discuss the matter with the parents. Through this involvement, it is hoped that parents will initiate corrective measures. This action involves the parents immediately and tends to reinforce the seriousness of the situation. The Field Interview Report (FIR), as outlined in Index Code 1629, may be used to record information when the incident does require an incident report.

C. Juvenile Citation

The juvenile citation is a mechanism for referring the juvenile to the Department of Juvenile Services for case screening and resolution. Police officers whose investigations confirm delinquent acts may refer the juvenile to the Department of Juvenile Services by issuing a juvenile citation. The juvenile citation is used for referrals for both custodial arrests (arrests that meet warrantless arrest criteria) and non-arrest situations where the delinquent act does not meet warrantless arrest criteria (i.e., misdemeanor not committed in the officer's presence), provided that probable cause has been established. Juvenile citations are also used to charge violations of the Motor Vehicle Law under certain circumstances, instead of the Maryland traffic citation -- see Index Code 1703 for specific guidelines.

D. Maryland Juvenile Civil Citation

Maryland Juvenile Civil Citations may be issued to juveniles (7 and over) for violation of certain alcohol abuse laws and marijuana possession. The State's Attorney's Office has said that the noise ordinance violation may also be placed on the juvenile civil citation instead of on the juvenile citation. The purpose of the juvenile civil citation is to enable officials presiding over juvenile hearings to order the suspension of the driver's license of a juvenile who violated one of the alcohol offenses. If the juvenile is not licensed, the hearing officer may order the Motor Vehicle Administration not to issue the defendant a driver's license, for a specified period of time from the time the defendant makes an application for a license. See Index Code 1703 for applicable laws and issuing procedures.

The DJS has requested that the juvenile's home telephone number be written on the juvenile civil citation. Juvenile Services workers can contact the parents quicker to reschedule a hearing and advise them of the charges if the phone number is available

E. Authorization and Formal Detention

Only the court or an intake officer of the Department of Juvenile Services may authorize detention or shelter care for a child who may be in need of supervision or who is delinquent. The Department of Social Services may authorize shelter care for a child who may be in need of assistance. If a child is taken into custody, he/she may be placed in detention or shelter care prior to a hearing if:

1. Such action is required to protect the child or person and property of others;
2. The child is likely to leave the jurisdiction of the court; or
3. There are no parents, guardian, custodian or other person able to provide supervision and care for the child and return him to the court when required.

Note: Detention may not be authorized for youth alleged to have committed a misdemeanor offense unless the act involved a handgun; or the child has been adjudicated delinquent at least twice in the preceding 12 months.

If a police officer contacts the Department of Juvenile Services to request formal detention of a juvenile in a detention facility, the officer must immediately provide a ***supervisor approved police report along with the juvenile citations*** to the intake officer to aid him/her in determining if placement should be made. All charges that will be placed on a juvenile citation must be included on the report. This report must be completed and approved by a supervisor in the records management system prior to submission to DJS. ***Keep in mind, DJS has 1 hour, from the time they receive the request, to make a decision on whether or not they will grant formal detention.***

Requests for formal detention should be sent to DJS:

During regular business hours (0800-1659)
DJS.AnnArundelCountyIntake@Maryland.gov
(410) 295-5740

After hours (1700-0759) or Holidays
DJS.CentralizedIntake@Maryland.gov ***(After Hours: 1700-0759/Holidays).***
(877) 404-3724

6 Hour Detention: To ensure compliance with the six hour juvenile detention timeframes, *officers will keep track of how long the juvenile has been in secure custody. Prior to exceeding six hours, the officer must move the juvenile to non-secure custody. The juvenile will remain handcuffed and monitored by a police officer. Approved locations inside the District Police Stations have been identified as the community room, roll call room, and/or lobby.*

Detention Granted: When a juvenile is formally placed in a detention facility by the Department of Juvenile Services, a copy of the arresting officer's *supervisor approved* police report and the issued juvenile citation will accompany the juvenile to the detention facility. If an officer should transport the juvenile from a detention facility to court, the officer must ensure that the *supervisor approved* police report and juvenile citation are delivered to the representative of DJS.

Last-minute information which would be critical in a placement decision should be emailed to DJS.AnnArundelCountyIntake@Maryland.gov (during normal hours) or DJS.CentralizedIntake@Maryland.gov (After Hours/Holidays). The juvenile's name and identity must be included. An example would be a confession to a violent crime, obtained after the initial report was submitted.

F. Juveniles Charged as Adults

For certain crimes committed by juveniles of specified ages, charges are to be placed on the Statement of Charges (form DC/CR2) because jurisdiction is automatically waived by operation of law to the Circuit Court. Ages at which certain crimes are waived to adult court are:

1. A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident:
 - First degree murder (CR 2-202)
 - Attempted first degree murder (CR 2-205)
 - First degree rape (CR 3-303)
 - Attempted first degree rape (CR 3-309)
 - First degree sexual offense (CR 3-305)
 - Attempted first degree sexual offense (CR 3-311)
2. A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident:
 - Abduction
 - Kidnapping (CR 3-502, CR 3-503)
 - Second degree murder (CR 2-204)
 - Attempted second degree murder (CR 2-206)
 - Manslaughter, except involuntary manslaughter (CR 2-207)
 - First degree assault (CR 3-202)
 - Second degree rape (CR 3-304)
 - Attempted second degree rape (CR 3-310)
 - Second degree sexual offense (CR 3-306a)
 - Attempted second degree sexual offense (CR 3-312)
 - Third degree sexual offense (CR 3-307a)
 - Robbery with dangerous weapon (CR 3-403)
 - Attempted robbery with dangerous weapon (CR –3-403)
 - Carjacking or armed carjacking (CR 3-405)
 - Wearing, carrying, or transporting handgun (CR 4-203)
 - Use of handgun or antique firearm in commission of crime of violence (CR 4-204)
 - Use of machine gun in crime of violence (CR 4-404)
 - Use of machine gun for aggressive purpose (CR 4-405)
 - Restriction on sale, transfer and possession of regulated firearm (PS 5-133, 5-134)

- Sale, transfer, etc., of stolen regulated firearm (PS 5-138)
- Short-barreled rifles and short-barreled shotguns (PS 5-203)
- Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime (CR 5-621)
- Firearms crimes related to convicted felons (CR 5-622)
- A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under section 4-202 of the Criminal Procedure Article.

NOTE: A child at least 16 years old alleged to have done an act in violation of the Transportation Article, other traffic law or ordinance, or a law, rule, or regulation governing the use or operation of a boat is charged as an adult (issued traffic citations, etc.) Except that if, the offense is punishable by incarceration, a juvenile citation is issued for the offense, and all other violations of the Transportation Article, other traffic law or ordinance, or law, rule, or regulation governing the use or operation of a boat arising out of the same incident.

V. OTHER PROCEDURES

A. Status Offenders

(Charging procedures for Status Offenders are outlined in Index Code 1703).

B. Uncontrollable Juveniles

Incorrigible (uncontrollable) juveniles should not be taken into custody merely because the parents, guardians or school authorities want the police to handle the situation, WITH THE FOLLOWING EXCEPTIONS:

1. If the juvenile is violent, is in the process of or has committed a criminal act, the officer will respond immediately and if necessary take the juvenile into custody, place the appropriate criminal charges and notify DJS for placement immediately.
2. In cases involving incorrigible (uncontrollable) nonviolent juveniles, the complainant will be referred to the Department of Juvenile Services and will be provided the proper phone number. In the event DJS elects to place (shelter) the juvenile, they should coordinate with the police if our assistance is needed for placement.

C. Truants

A juvenile will not be held at a district station if he/she is truant. The officer will contact the school principal and transport the child back to the appropriate school.

D. Runaways

Officers should strongly encourage a runaway to talk about the reason for his/her behavior. Many times children run away from home because of physical or sexual abuse, neglect, or alcoholism in the family.

E. Child in Need of Assistance

In cases where a child has been left without adequate supervision, the officer will attempt to have a relative or guardian take custody. If the attempts to locate a relative or guardian fail, the officer will notify the Department of Social Services (child in need of assistance) to place the child.

VI. PROPONENT UNIT: Youth/Victim Engagement Services

VII. CANCELLATION: This directive cancels Index Code 1701, dated 06-06-22.