

Department of Legislative Services  
Maryland General Assembly  
2026 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 323

(Senator Smith, *et al.*)

Judicial Proceedings

Judiciary

---

Juvenile Court - Jurisdiction, Detention, and Confinement (Youth Charging Reform Act)

---

This bill (1) expands the jurisdiction of the juvenile court by repealing statutory exceptions to the juvenile court's exclusive original jurisdiction; (2) requires detention of a child before a hearing in specified situations; (3) limits the circumstances under which a child may be held, detained, or confined in an adult jail or correctional facility and prohibits detaining or confining a child in any institution in which the child has contact with or comes within sight or sound of an incarcerated adult, as specified; and (4) imposes several reporting requirements. The bill applies only prospectively and does not apply to any criminal prosecution or delinquency proceeding for any act committed before the bill's October 1, 2026 effective date. **The bill generally takes effect October 1, 2026; specified provisions related to juvenile confinement take effect October 1, 2029.**

---

Fiscal Summary

**State Effect:** Potential significant cost savings for the Department of Juvenile Services (DJS) beginning in FY 2027 from operational efficiencies, as discussed below. Depending on generated DJS bed space, the bill may have capital funding implications, as discussed below. Potential reduction in general fund expenditures for the Office of the Public Defender (OPD) and the Department of Public Safety and Correctional Services (DPSCS). Implementation of the bill may help the State avoid the loss and restricted use of federal grant funding beginning in FY 2030 (or possibly earlier), as discussed below. Revenues are not affected.

**Local Effect:** General fund expenditures for State's Attorneys' offices increase, potentially significantly beginning in FY 2027, as discussed below. General fund expenditures for local detention facilities are assumed to decrease, at least moderately, beginning in FY 2030 (or possibly earlier), as discussed below. Revenues are not affected.

**Small Business Effect:** None.

---

## Analysis

### Bill Summary/Current Law:

#### **I. Juvenile Court Jurisdiction, Detention Prior to a Hearing, and Reporting Requirements (Effective October 1, 2026)**

##### *Juvenile Court Jurisdiction*

In general, the juvenile court has jurisdiction over children who are alleged to be delinquent, in need of supervision (CINS), or who have received a citation for specified violations. The juvenile court also has jurisdiction over peace order proceedings in which the respondent is a child.

Under current law, the juvenile court has jurisdiction over a child who is at least age 10 and is alleged to have committed an act that would, if committed by an adult, be (1) a “crime of violence” (as defined in § 14-101 of the Criminal Law Article); (2) specified crimes involving handguns and firearms; (3) aggravated cruelty to animals; or (4) third-degree sexual offense. Outside of these circumstances, the juvenile court does not have jurisdiction over a child younger than age 13 for purposes of a delinquency proceeding, and such a child may not be charged with a crime. A child of any age may be adjudicated a CINS and subject to the juvenile court’s jurisdiction under applicable provisions.

Under current law, the juvenile court does not have jurisdiction over (1) a child at least age 14 alleged to have committed an act which, if committed by an adult, would be a crime punishable by life imprisonment; (2) a child at least age 16 alleged to have violated specified traffic or boating laws; (3) a child at least age 16 alleged to have committed specified crimes (violent crimes, firearms crimes, etc.); or (4) 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. These cases are tried in adult criminal court.

The bill repeals the following exclusions from the juvenile court’s jurisdiction:

- a child at least age 16 and alleged to have committed first-degree assault under § 3-202 of the Criminal Law Article;
- a child at least age 16 and alleged to have committed a crime in violation of § 5-133 (possession of a regulated firearm), § 5-134 (sale, rental, or transfer of a

regulated firearm), or § 5-138 (sale, transfer, or disposal of a stolen regulated firearm) of the Public Safety Article; or

- a child at least age 16 and alleged to have committed a crime in violation of § 4-203 (wearing, carrying, or transporting a handgun), § 5-621 (firearm in connection to a drug trafficking crime), or § 5-622 (possession of a firearm after conviction) of the Criminal Law Article.

By repealing these exclusions, children charged with these offenses will be initially charged in the juvenile court. In accordance with existing statutory procedures described below, prosecutors can petition the juvenile court to waive its jurisdiction and send the case to adult court.

### *Transfers of Jurisdiction (Not Changed by the Bill)*

Under current law, for items (1), (3), and (4) above, the adult criminal court may transfer the case back to juvenile court before trial or before a plea is entered if the court determines from a preponderance of the evidence that transfer is in the interest of the child or society and specified conditions are met. This is often referred to as “reverse waiver.” A reverse waiver is not permitted in certain circumstances, such as when the child was previously convicted in an unrelated case excluded from the jurisdiction of the juvenile court or when the alleged crime is murder in the first degree and the accused child was at least age 16 when the alleged crime was committed.

The juvenile court may waive its jurisdiction (which transfers the case to adult court), with respect to a petition alleging delinquency if the petition concerns a child who is at least age 15 or a child who is charged with committing an act which, if committed by an adult, would be punishable by life imprisonment. The court may waive its jurisdiction only after it has conducted a waiver hearing held prior to the adjudicatory hearing and after notice has been given to all parties. The court may not waive its jurisdiction over a case unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

The juvenile court must consider the following criteria when making a waiver determination: (1) the child’s age; (2) the mental and physical condition of the child; (3) the child’s amenability to any available treatment; (4) the nature of the offense and the child’s alleged participation in it; and (5) public safety. These criteria must be considered individually and in relation to each other on the record.

Statutory provisions also authorize a court exercising criminal jurisdiction to transfer the child to the juvenile court at sentencing if (1) as a result of trial or a plea, all charges under specified provisions that excluded jurisdiction from the juvenile court do not result in a finding of guilty and (2) pretrial transfer of the case was prohibited under specified statutes

or the court did not transfer jurisdiction after a reverse waiver hearing. In determining whether to transfer jurisdiction at sentencing, the court must consider (1) the child's age; (2) the mental and physical condition of the child; (3) the child's amenability to any available treatment; (4) the nature of the child's acts as proven in the trial or admitted to in a plea; and (5) public safety.

#### *Authorized Detention Prior to a Hearing*

Under current law, a child who is taken into custody may be placed in detention or community detention prior to a hearing if such action is required to protect the child or others or the child is likely to leave the jurisdiction of the court. Generally, a child whose most serious offense would be a misdemeanor if committed by an adult cannot be placed in detention before a hearing unless (1) the act would be a violation of specified handguns and firearms prohibitions if committed by an adult; (2) the child has been adjudicated delinquent at least twice within the preceding two years; or (3) the child was under the supervision of DJS when the alleged act occurred and the alleged act, if committed by an adult, would be subject to a penalty of imprisonment of more than two years and would not constitute second-degree assault. Statute specifies exceptions for placing a child younger than age 13 in detention prior to a hearing.

Under the bill, an intake officer must authorize detention prior to a hearing for a child if the child is at least age 16 and accused of an act that, if committed by an adult, would be a violation of § 4-203 (wearing, carrying, or transporting a handgun) of the Criminal Law Article or a crime of violence, as defined in §14-101 of the Criminal Law Article.

#### *Juvenile Court Dispositions (Not Changed by the Bill)*

Generally, a disposition hearing is held by the juvenile court 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.

### *Reporting Requirements (New Under the Bill)*

The bill requires DJS, on or before October 1, 2027, and annually thereafter, in consultation with the Governor's Office of Crime Prevention and Policy (GOCPP) and the Administrative Office of the Courts to report to the Commission on Juvenile Justice and Emerging and Best Practices and the General Assembly on:

- the average length of stay of youth awaiting committed placement in a juvenile detention facility;
- the total number of cases in which the juvenile court is petitioned to waive, chooses to waive, or declines to waive its jurisdiction under § 3-8A-06 of the Courts and Judicial Proceedings Article;
- the total number of cases in which an adult court is petitioned to transfer, chooses to transfer, or declines to transfer a case to the juvenile court under § 4-202 of the Criminal Procedure Article; and
- the average length of time a youth spends in detention, community detention, or shelter care awaiting a decision under § 3-8A-06 of the Courts and Judicial Proceedings Article (waiver of juvenile court jurisdiction).

The bill requires GOCPP, on or before October 1, 2027, and annually thereafter, to report to the Commission on Juvenile Reform and Emerging and Best Practices and the General Assembly on (1) the total number of youth housed in facilities with adult offenders on a monthly basis; (2) the average length of stay of youth housed in facilities with adult offenders; (3) the total number of youth charged as adults under § 3-8A-03(d)(3) of the Courts and Judicial Proceedings Article and the offenses with which those youth are charged; (4) the total number of youth held in restrictive housing in facilities with adult offenders; and (5) the total number of violations of the provisions of Title 34 of the U.S. Code (the federal Juvenile Justice and Delinquency Prevention Act (JJDP)) – see below) prohibiting youth from having sight and sound contact with adult offenders.

The bill requires the Commission on Juvenile Justice Reform and Emerging and Best Practices to report to the General Assembly by October 1, 2027, on (1) the implementation of the bill; (2) the total number of behavioral incidents involving juveniles in the custody of DJS following enactment of the bill; and (3) the ability of DJS to maintain staffing levels adequate to meet any increase in the number of juveniles in the custody of DJS as a result of the bill.

## **II. Juvenile Confinement (Effective October 1, 2029)**

### *Children in Adult Facilities and Sight and Sound Separation*

In general, statute allows a child subject to the adult criminal court's jurisdiction to be held in an adult detention facility.

Under current law, the official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime must inform the court or the intake officer immediately when a person, who is or appears to be younger than age 18, is received at the facility and must deliver him to the court upon request or transfer him to the facility designated by the intake officer or the court, unless the court has waived its jurisdiction and he is being proceeded against as an adult. When a case is transferred to another court for criminal prosecution, the child must promptly be transferred to the appropriate officer or adult detention facility in accordance with statute. The bill repeals these provisions.

The bill also prohibits a child, including one subject to adult criminal court jurisdiction, who has been arrested, convicted, or awaiting trial on criminal charges from being detained or confined in any institution in which the child has contact with or comes within sight or sound of an incarcerated adult. Absent a temporary hold for processing, a child who has been arrested, convicted, or is awaiting trial for an offense under adult criminal court jurisdiction is prohibited from being held in custody in an adult correctional facility. However, a child may be temporarily held for processing in an adult jail or correctional or detention facility that does not have a secure juvenile detention area if the child is separated by sight and sound from incarcerated adults and is held for a period not exceeding six hours, as specified.

### *Transportation with Adults*

Under current law, a child may not be transported together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and the child is being proceeded against as an adult. Under the bill, a child may not be transported together with adults who have been charged or convicted of a crime, regardless of the jurisdiction over the child.

### *Pending Placements in Juvenile Facilities*

Under current law, pending the determination to transfer jurisdiction of a child, the court must order the child to be held in a secure juvenile facility unless (1) the child is released on bail, recognizance, or other conditions of pretrial release; (2) there is not available capacity in a secure juvenile facility, as determined by DJS; or (3) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others. If

the court makes a finding that detention in a secure juvenile facility would pose a risk of harm to the child or others, the court must state the reasons for the finding on the record. The bill repeals provisions (2) and (3).

*Juvenile Justice and Delinquency Prevention Act – Federal Law – Not Changed by the Bill*

The JJDP A requires states to comply with four core requirements: (1) deinstitutionalization of status offenders; (2) sight and sound separation of juveniles from adults in institutions; (3) removal of juveniles from adult jails and lockups; and (4) addressing racial and ethnic disparities. The 2018 reauthorization of the JJDP A required states to come into compliance by December 2021, or risk losing federal funding.

**State Fiscal Effect:**

*Assumption*

Neither the bill nor existing statute define “adult correctional facility.” The Youth Detention Center (YDC) in Baltimore City houses youth younger than age 18 who are charged as adults in Baltimore City and are awaiting trial or serving the beginning of their sentence for a conviction as an adult. While YDC’s entire population is younger than age 18, by function and statute, YDC is operated by the Division of Pretrial Detention and Services in DPSCS, not DJS. This estimate assumes that YDC can continue to be operated by DPSCS and used for its current purpose under the bill.

*Department of Juvenile Services*

*Changes to Juvenile Court Jurisdiction:* General fund expenditures for DJS decrease, perhaps significantly, due to realized operational efficiencies under the bill. According to DJS, over 50% of youth charged as adults were charged with handgun possession or first-degree assault; the bill moves initial jurisdiction of youth charged with these offenses from the adult court to the juvenile court. In calendar 2025 and as noted in **Exhibit 1**, 303 youth charged as adults for handgun or firearms violations and 204 youth charged as adults for first-degree assault received the case outcomes indicated below (including transfer or waiver decisions, adjudications or trials, dispositions, sentences, or outcome-changing appeals). Most of these youth had their cases eventually transferred to juvenile court.

---

**Exhibit 1**  
**Calendar 2025 Youth Charged as Adults**  
**Handgun Violations and First-Degree Assault Case Outcomes**

<u><b>Most Serious Offense Charged</b></u>	<u><b>Handgun/Firearm Violations</b></u>	<u><b>First-Degree Assault</b></u>
<b>Youth Charged in Adult Court</b>	303	204
<b>Dismissed Pre-transfer</b>	34	51
<b>Transferred to Juvenile Court</b>	211	115
<b>Stayed in Adult Court, Denied or Withdrew Transfer</b>	58	38

Source: Department of Juvenile Services

---

In fiscal 2025, DJS reported that up to 68% of its pre-disposition population is youth charged as adults, whose length of stay averages 147 days. Comparatively, youth charged in the juvenile court held in pre-disposition facilities stay on average for 27 days. Consequently, DJS anticipates processing cases and providing services at a faster rate to its youth population. The Department of Legislative Services (DLS) notes that any associated cost savings due to these operational efficiencies may be offset (to an unknown degree) by an increased DJS population and increased demand for DJS services.

*Mandatory Pre-Hearing Detention:* DJS advises that the bill’s provisions requiring detention prior to a hearing of youth charged with specified offenses codify existing practice and can be implemented with existing budgeted resources.

*Sight and Sound Separation:* DJS advises that depending on available bed space generated by more efficient case processing under the bill’s jurisdictional provisions, the department may be able to accommodate the bill’s sight and sound separation requirements (effective beginning in fiscal 2030) with existing facilities.

Should additional facilities be required, the cost associated with constructing a facility cannot be reliably determined at this time. However, *for illustrative purposes only*, in response to previous related legislation, DJS estimated the cost of constructing a 24-bed facility at \$45 million with significant additional annual operating expenditures. Regardless, these provisions have no effect on total capital spending, which is established annually by the Governor and the General Assembly through the capital budget process. However, funding for other capital projects is reduced or delayed should the bill result in construction costs.

*Reporting Requirement:* DJS can implement the bill’s reporting requirements with existing budgeted resources.

*Governor’s Office of Crime Prevention and Policy*

GOCPP administers the Title II Juvenile Justice Delinquency Prevention Formula Grant, which, subject to the federal grant program and federal law, requires the removal of children from adult jails and lockups. GOCPP advises that current State practice is noncompliant, and implementation of the bill is necessary for compliance with federal formula grant funds standards. **Exhibit 2** details federal fiscal 2023 and 2024 compliance standards and the State’s noncompliance monitoring rates.

**Exhibit 2**  
**JJDPA Compliance Standards and Maryland’s Noncompliance Monitoring Rates**  
**Federal Fiscal 2023 and 2024**

<u>Requirement</u>	<u>Federal Standard</u> (per 100,000 juveniles)		<u>Maryland’s Noncompliance Monitoring Rate</u> (per 100,000 juveniles)	
	<u>2023</u>	<u>2024</u>	<u>2023</u>	<u>2024</u>
	Deinstitutionalization of status offenders and nonoffenders	3.08	3.23	0.00
Removal of juveniles from adult jails and lockups	n/a	14.68	93.26	119.59
Sight and sound separation	0.66	0.16	0.00	0.00
Removal of juveniles, alleged delinquent, from adult jails and lockups	8.81	15.13	0.66	2.39

JJDPA: Juvenile Justice Detention Prevention Act

n/a: not applicable

Source: The Governor’s Office of Crime Prevention and Policy

If a state is noncompliant with JJDPA’s core requirements, the federal government reduces the state’s JJDPA grant funding by 20% per noncompliant requirement, and the State must reallocate 50% of its remaining award to compliance efforts. GOCPP notes that most violations of the “sight and sound” separation requirement occur as a result of youth placed

in local adult jails and detention centers and recur every 30 days that a youth remains housed in an adult facility.

According to GOCPP, Maryland was awarded \$866,821 in 2024. The federal government has yet to reduce the State's grant funding but plans to increase compliance enforcement efforts this year. Assuming continued steady funding, no changes to federal compliance standards and State performance, and a 20% funding cut absent the bill, the State avoids loss of approximately \$173,000 in federal grant funding and restricted/reallocated use of approximately \$347,000 in grant funding per year beginning as early as fiscal 2030 under the bill.

Information is not readily available on where children age 16 and older charged with first-degree assault and the weapons offenses included in the bill's jurisdictional provisions are currently held (*i.e.*, in adult or juvenile facilities). As noted above, YDC in Baltimore City does not house adults. The sight and sound separation requirements under the bill intended to facilitate JJDP A compliance do not take effect until fiscal 2030. However, if some of these children are currently being held in adult facilities and are moved to juvenile facilities under the bill's jurisdictional provisions, the State may come closer to compliance with the JJDP A. Because loss of JJDP A funding is calculated under a federal formula based on a State's *degree* of noncompliance, depending on actual experience under the bill, the State may mitigate its loss of federal funding prior to the effective date of the sight and sound requirements in fiscal 2030.

GOCPP can implement the bill's reporting requirements with existing budgeted resources.

#### *Office of the Public Defender*

Based on information submitted for similar legislation introduced last year, general fund expenditures for OPD contractual services for psychologists may decrease due to fewer cases originating in the adult criminal court system. OPD utilizes contractual psychologists to evaluate the current developmental capacity of children in the adult criminal court. In fiscal 2024 (the last year readily available), OPD represented 618 youth in transfer hearings. However, it is unclear if OPD utilizes these services for hearings to waive cases from the juvenile court to the adult court. Should that occur, OPD experiences reduced cost savings. Any such impact depends on waiver requests by prosecutors in response to the bill, which cannot be reliably determined at this time.

#### *Department of Public Safety and Correctional Services*

General fund expenditures for DPSCS may decrease minimally if the bill results in fewer youth being sentenced to DPSCS facilities.

## *Judiciary*

The Judiciary can implement the bill using existing budgeted resources.

### **Local Fiscal Effect:**

#### *Local State's Attorneys' Offices*

The Maryland State's Attorneys' Association (MSAA) advises the bill significantly increases workloads for juvenile cases, which often include increased filings and shortened timelines. Accordingly, the following localities have reported the need for 59 total additional personnel to implement the bill, broken down by the following:

<u>County</u>	<u>Personnel</u>
Anne Arundel	4 employees (1 assistant state's attorney; 0.5 case manager; 0.5 victim/witness advocate; 1 investigator; 1 body camera worn paralegal)
Baltimore City	16 employees (11 assistant state's attorneys; 5 support staff)
Baltimore County	6 employees (3 assistant state's attorneys; 2 paralegals; 1 administrative aide)
Carroll	3 employees (1 assistant state's attorney; 1 assistant; 1 witness coordinator)
Frederick	3 employees (1 assistant state's attorney; 1 investigator; 1 administrative aide)
Howard	5 employees (2 assistant state's attorneys; 3 paralegals)
Montgomery	9 employees (4 assistant state's attorneys; 4 legal assistants; 1 technology specialist)
Prince George's	13 employees (4 assistant state's attorneys; 3 administrative aides; 2 victim/witness coordinators; 2 paralegals; 2 investigators)

While acknowledging the general potential for a significant fiscal impact, DLS is unable to validate the magnitude of the estimates provided by MSAA at this time. MSAA did not provide data to support its estimated need for personnel under the bill.

#### *Local Adult Detention Facilities*

Assuming that local jurisdictions do not have to alter facilities or significantly alter operations to comply with the bill (particularly the six-hour hold provision) local expenditures decrease due to a reduced juvenile jail population. As noted above, information is not readily available on the extent to which children affected by the bill's jurisdictional provisions are currently being held in adult jails. While provisions directly affecting local juvenile jail populations do not take effect until fiscal 2030, if the bill's jurisdictional provisions reduce the number of children in adult jails, local juvenile jail populations decrease earlier than fiscal 2030.

Provisions effective in fiscal 2030 shift children from local jails to DJS facilities and impose additional requirements on the conditions under which children are kept in local jails during the six-hour temporary hold period permitted under the bill. As noted above, data is not readily available on the number of children held in local jails. According to GOCPP, most of the State’s sight and sound violations occur at local jails. Also, according to a workgroup of the Commission on Juvenile Justice Reform and Emerging and Best Practices, “... counties have consistently reported that detaining youth in adult jails strains budgets, staffing, and infrastructure. Most facilities were not built to meet federal ‘sight and sound’ separation standards, and retrofitting would cost millions. These limitations increase the likelihood of compliance violations while placing youth at risk of harm.”

The Maryland Association of Counties (MACo) advises that the bill relieves local jails of operational and fiscal burdens. According to MACo, local jurisdictions have employed extensive measures to comply with the sight and sound federal mandate for a limited juvenile population, altering facilities to achieve compliance has been impossible in some instances, and coordination efforts to avoid placements of juveniles in restrictive confinement have been complicated.

Anne Arundel County advises that the bill may increase workload and overtime costs. Subsequent transportation requirements of a juvenile from a local detention facility to a DJS facility may require the arresting officer or detention staff to remain on site of where the juvenile was initially processed until transportation can be completed.

---

### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 409 (Delegate Bartlett, *et al.*) - Judiciary.

**Information Source(s):** Anne Arundel, Cecil, Frederick, Montgomery, and Somerset counties; Maryland Association of Counties; Governor’s Office of Crime Prevention and Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Juvenile Services; Department of Public Safety and Correctional Services; Commission on Juvenile Justice and Emerging and Best Practices; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2026  
caw/aad Third Reader - March 31, 2026  
Revised - Amendment(s) - March 31, 2026

---

Analysis by: Amanda L. Douglas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510