

70-2(e) (3), and 94. The commission proposed elimination of the requirement of prior adjudication of the child as a hindrance to prosecutions under this section. The proposal was based on Art. 26, §91 which seems not to require prior adjudication. The proposal was rejected by the Senate Judicial Proceedings and House Judiciary Committees which considered this proposal as being a controversial substantive change which was beyond the scope of code revision.

The provisions of §70-2(a) (7) dealing with exemption of Baltimore City from the general statewide juvenile age limit of 18 years has been declared unconstitutional and is therefore deleted. (See Long v. Robinson, 436 Fed 2nd 1116 (1971); Green v. State, 11 Md. App. 106 (1971)).

Subsection (b) is derived from Art. 26, §§ 70-2(e) (3) and 94. Its provisions are placed after general provisions contained in subsection (a), because they are complementary to the jurisdictional provisions. Incidentally, this organization is similar to that found in Title 4, subtitle 5 (Montgomery County Juvenile Causes). It may be observed that these provisions provide no more than an alternate forum to a defendant charged with contributing to the delinquency, neglect or need of supervision of a minor and that it does not allow the defendant a choice of charges but merely a choice of forums. (See Smith v. State, 10 Md. App. 175 (1970)).

SEC. 3-806. JURISDICTION TO DETERMINE CUSTODY OR APPOINT GUARDIAN.

THE COURT MAY DETERMINE THE CUSTODY OR APPOINT A GUARDIAN OF THE PERSON OF A CHILD ONLY IF THE CHILD IS OTHERWISE SUBJECT TO THE JURISDICTION OF THE COURT.

REVISOR'S NOTE: This section is new language derived from Art. 26, §70-2(b). This section reflects the staff's understanding of the present law, i.e., a juvenile court has jurisdiction over guardianship only in