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Judicial Proceedings Committee

Parliamentarian
Maryland Legislative Black Caucus



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Charles E. Sydnor III
Re: SB 314 Juvenile Charged as Adults - Confidentiality of Records
Before the Judicial Proceedings Committee
On February 11, 2020

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee.

Our juvenile justice system is an integral part of the criminal justice system. It exists both to reprimand our troubled youth and to rehabilitate them into productive members of society. Maryland law states that, among other things, the juvenile justice system was created “to provide for the care, protection, and wholesome mental and physical development . . . consistent with the child’s best interests and the protection of the public interest.”¹ Additionally, the system was created “to provide to children in State custody . . . a safe, humane, and caring environment.”² I believe that our law in its current form accomplishes the opposite.

Currently, if a juvenile commits one of the crimes enumerated in the Code of Courts & Judicial Proceedings³, law enforcement must decide whether they should be charged as an adult or as a juvenile. If the juvenile is charged as an adult, they have the right to ask the Circuit Court judge to have their case waived to the juvenile court. However, if a juvenile is charged as an adult, their records are not automatically sealed and kept out of the public eye. For all intents and purposes, the juvenile is treated as an adult and their records are available to the public. If the juvenile’s case is waived to juvenile court, only then are they able to benefit from the laws providing confidentiality.

Currently, there is no legal requirement for a court or law enforcement agency to keep confidential the records of a juvenile charged of a crime prior to that juvenile’s case being dismissed or sent to juvenile court. These interactions with the court will stay on the juvenile’s record unless their attorney proactively requests an expungement. SB 314 ensures that a juvenile will be tried as a juvenile first, keeping the state from creating a publicly available criminal record on them. And if the court decides to try the juvenile as an adult, SB 314 ensures that they will still be protected by the confidentiality laws described in section 3-8A-27 of the Code of Courts and Judicial Procedure.⁴

¹ Md. Code Ann., CT’s. & Jud. Proc. § 3-8A-02.

² *Id.*

³ Md. Code Ann., CT’s. & Jud. Proc. § 3-8A-03.

⁴ Md. Code Ann., CT’s. & Jud. Proc. § 3-8A-27.

We are currently saddling our troubled youth with the burden of being labelled a criminal in the court of public opinion, rather than rehabilitating them and setting them on the right path in life. I am introducing SB 314 because I believe that the mission of our juvenile justice system is being undermined. SB 314 ensures that underage offenders are given a fair shot at a second chance.

A criminal record follows you wherever you go. This bill will enhance a juvenile's ability to become a responsible and productive member of society by helping to mitigate the stigma associated with having a criminal record when they grow older, become more mature, and seek to better themselves through gainful employment or higher education.

Montgomery County has adopted a similar policy which ensures that all accused juveniles are afforded the opportunity to attempt to rehabilitate themselves outside of the public eye. Their policy states that "while mug shots may be released, as they are public records, a mug-shot of anyone under the age of 18 years of age will not be released."⁵ If Montgomery County can do this, I believe our other police departments can as well.

Professors Erika Fountain and Bronwyn Hunter of the University of Maryland, Baltimore County, put it well when they say that "when you are young, you sometimes do things without full appreciation of the consequences. . . . Adolescents are treated differently under the law because we recognized that they are developmentally different from adults. Our society believes that youth deserve a second chance . . . and should not be labelled as criminals."⁶

I urge the committee to move favorable on SB 314.

⁵ Montgomery County Police Department, Police/Public Media Relations Policy FC No.: 1141.

⁶ Erika N. Fountain and Bronwyn A. Hunter, *Keep youth criminal records confidential*, The Baltimore Sun, January 28, 2020.