



PSYCHOLOGY

University of Maryland, Baltimore County
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Senate Judicial Proceedings Committee
Bill #: SB314
Juveniles Charged as Adults - Confidentiality of Records
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University of Maryland, Baltimore County
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SUPPORT

Dear Judicial Proceedings Chair and Committee Members,

We are writing in support of Bill # SB314: "Juveniles Charged as Adults - Confidentiality of Records," which would limit the public availability of criminal records for youth who are charged as adults whose cases are remanded to juvenile court. We are faculty members in the psychology department at the University of Maryland, Baltimore County (UMBC). Our research spans the experiences of juveniles and adults in the criminal justice system and we are in full support of this bill for the following reasons.

Adolescents' are treated differently under the law due to their developmental immaturity and potential for change, which is why all juvenile records should be confidential. There is a wealth of research evidence that demonstrates that adolescents' offending behavior is often a tentative expression of adolescent identity and not an enduring pattern of behavior arising from a fully formed personality. For example, there is robust evidence that adolescent brain development continues until about age 25; specifically, the development of the prefrontal cortex, which is implicated in executive functions, such as decision making and planning processes, undergoes important developmental changes during adolescence and into young adulthood. These changes have important implications for risk taking behavior, sensation seeking, impulsivity, and future planning. Because of these developmental considerations, our society recognizes that youth deserve a second chance, can benefit from rehabilitative services, and should not be labeled as criminals. Maryland policy currently dictates that juvenile court records are confidential and are not available to the general public, though they can be shared internally with various agencies, such as school systems. However, **current policy fails to protect youth** who are initially charged as adults, but are later remanded to juvenile court, from the life-long consequences of a criminal record.

When youth are charged as adults there are no protections of confidentiality. Private information about youth who are tried as adults—including name, date of birth, home address, and the list of charges—are easily accessible through the Maryland online court database as well as in media reports. However, youth are often only **initially** charged as adults until a judge decides it would be more appropriate for their case to be remanded to juvenile court.

In Maryland, once a youth's case is remanded to juvenile court, their criminal record is eligible for expungement and the public should no longer have access to those records - just like any other juvenile case. Unfortunately, removing a youth's initial criminal court record from the public system is not easy or automatic. A petition for expungement must be filed, or the youth's record and original charges will remain in the public domain. Unfortunately, these petitions are not always filed, at which point the original criminal charges remain public. Bill 314 addresses this loophole in current policy by requiring that juvenile police and court records remain sealed until **after** a judge decides whether the case should be remanded to juvenile court.

After a youth's case is remanded from adult to juvenile court, juvenile confidentiality protections require that the disposition or outcome of the case is not public even though the initial criminal charges may

remain publicly available online. In fact, according to the 2018 Maryland Department of Juvenile Services Data Resource Guide, approximately 25% of youth who are remanded to juvenile court have their cases dismissed - but the public does not have access to this information. Most alarmingly, youth whose cases are remanded from adult to juvenile court are disproportionately youth of color - as 81.7% of all youth tried as adults and detained pending transfer to juvenile court in Maryland are African American. The disproportionate impact of the current policy on African American youth perpetuates racism and inequality for these - and all - youth of color. The public availability of criminal records and media reports for these youth compounds the racial inequality that persists at all points of the criminal justice system. **By limiting public access to juvenile criminal records until a judge decides that the youth will proceed in adult court, SB 314 reduces the likelihood that youth crimes will be sensationalized by the media and creates a more equitable judicial process for youth whose cases are remanded to juvenile court.**

Dr. Fountain's research lab recently uncovered 50 unique cases over the past three years of youth whose cases were remanded to juvenile court but their original charges were still visible online. Because the petitions for expungement were never filed, we had immediate access to the youth's private information, as well as all of the original charges brought against them. Because these individuals' charges were not confidential or sealed before being remanded, we also had access to media reports and photos of many of these youth. There are two important reasons why this information was public. First, youth who are initially charged as adults are not currently guaranteed the same confidentiality protections as youth in the juvenile justice system. Second, we rely on petitions for expungement instead of automatically expunging cases that are transferred to juvenile court, which increases the possibility that these cases fall through the cracks and remain in the public domain. Bill SB314 would protect these youths' confidentiality in the event that a judge decides their case is best handled in juvenile court. Currently, these youth do not receive the full confidentiality protections that are provided for juvenile cases. There is a need to ensure that **all youth** who are ultimately tried in juvenile court have their police and court records sealed so that they remain confidential to the general public.

Finally, there is no evidence that allowing youths' initial criminal charges to remain in the public domain improves public safety in any way. There is research, however, that the impact of a criminal record on health and well-being are detrimental and long lasting. The stigma of a criminal record permeates all areas of one's life - relationships with others, access to educational and employment opportunities, housing, as well as other areas of one's life. **Importantly, this lack of confidentiality undermines the full rehabilitative potential of the juvenile justice system, which is the core foundation of the entire system.**

Protecting the confidentiality of youth is essential for ensuring that they have the opportunity to succeed by eliminating the stigma of a criminal record and maintaining their confidentiality. It is for these reasons that we are in full support of SB314, "Juveniles Charged as Adults - Confidentiality of Records."

Sincerely,



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