

ACY_Support_SB314

Uploaded by: DeV Vaughn, Ashley

Position: FAV



To: Committee Chair, Judicial Proceedings
From: Ashley Devaughn, Youth Justice Policy Director
Re: SB0314, Juveniles Charged as Adults - Confidentiality of Records
Date: February 11, 2020
Position: Support

Thank you for the opportunity to provide testimony on SB0314, Juveniles Charged as Adults - Confidentiality of Records. Advocates for Children and Youth (ACY) SUPPORTS this bill.

We urge this committee to issue a favorable report on SB0314.

Maryland is a great state and like this great nation has made mistakes or decisions that yielded extraordinary consequences. Senate President Bill Feguson said on Opening day "In moments of fear we have responded with incarceration being the solution and that hasn't worked." From 1994-2014 the Maryland legislature followed the national trend of policymakers in this country creating 33 exclusionary offenses in which we automatically charge youth as adults and as of last week this committee heard bills that would increase that list. These policies have not improved public safety and has created a web of unintended consequences ultimately incarcerating the most emerging adults or youth transitioning into adulthood than any other state.

According to the Maryland Department of Juvenile Services, during 2018, roughly 400 cases of youth charged as an adult were transferred back to the juvenile court system statewide and from 2012-2017 Baltimore City Judges transfer 88% of youth charged as an adult back to the juvenile court system. In 2017, of the 124 cases that were transferred back to juvenile court, 49.2 percent (61 youth) resulted in commitment to the Department of Juvenile Services, 27.4 percent received probation, and 23.4 percent were dismissed. Youth automatically charged as adults can spend months in adult jails or in juvenile detention facilities while awaiting a waiver or transfer hearing only to be later transferred to the juvenile court system and, in some cases, released into the community.

As we work to reverse the dangerous policies of the past we must also protect youth from the ramifications of these policies. Currently, in Montgomery County no youth identification information is released to the media regardless of how the youth is charged. SB 0314 extends that County best practice statewide and would prevent the release of case and personal identifying details such as Name, Address or photo of youth charged as adults until a judge has heard the case in a transfer hearing to the media and on CaseSearch. The rise of social media and the global spread of information publicly across multiple news outlets that can be accessed by national and international audiences via the internet places youth offenders' identity in unprecedented danger. Minors in the criminal justice system should not suffer lifelong repercussions for youthful indiscretions. Current policy and practices breach the juvenile's right to privacy, undermine attempts at rehabilitation, and could deny reintegration back into the community.

Removing access to privacy imposes a secondary punishment of a youth beyond criminal charges and will hinder future opportunities such as education, employment, and even housing. Further, undue publicity leads to implicit biases causing Judges to assign greater culpability, prejudice towards guilt and adultification of the young person removing the ability to be seen as a youth offender.

Shielding a young person's case until a judge has heard it would have two positive benefits:

1. Ensures the youth have a right to a fair hearing
2. It preserves the positive benefits of a transfer hearing.

The juvenile's right to privacy must be protected at all stages in order to avoid harm being caused by undue publicity and labelling. We have some mechanisms in place in certain jurisdictions to expunge records but there no expungement of media exposure, and a potential employer or landlord simply Googling a name can set the individual back long after the case was transferred.

In conclusion, as we work to move towards evidence based juvenile justice policy, it is important to remember that kids are still kids, no matter the offense committed. Also, we most contend with youth charged as adults or in the juvenile system, even those convicted of the most serious offenses, will return to our communities. Treating or punishing them as adults does not improve public safety, ignores developmental research, and undermines the rehabilitation necessary to transform youth behavior and increase public safety.

We urge this committee to issue a favorable report on SB0314.

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Advocates for Children and Youth builds a strong Maryland by advancing policies and programs to ensure children of every race, ethnicity, and place of birth achieve their full potential.

MYJC_Support_SB314

Uploaded by: DeV Vaughn, Ashley

Position: FAV



To: Committee Chair, Judicial Proceedings
From: Maryland Youth Justice Coalition
Re: SB 314, Juveniles Charged as Adults - Confidentiality of Records
Date: February 11, 2020
Position: Support SB 314

Thank you for the opportunity to provide testimony on SB 314, Juveniles Charged as Adults - Confidentiality of Records. The Maryland Youth Justice Coalition SUPPORTS this bill.

In a 2014 report¹ researchers found that black boys are viewed as both older and more culpable than white peers, even when those children are as young as 10 years of age. This report, published by the American Psychological Association, contains the results of researchers surveying both mostly white, male police officers approximately 37 years of age in large urban areas and mostly white, female university students at large public universities. The women on average overestimated the age of black males over the age of 10 by 4 ½ years. These young youth of color were also found to be at greater risk of police violence if accused of a crime based on the surveys done of the police officers.

A 2015 report by Color for Change² that studied local crime reporting in NYC found that local news stations represented about 3 out of every 4 offenders as black – 75% – when the NYPD arrest rate was actually about 50% black persons. This overrepresentation of reporting on black arrestees distorts the truth and generates the erroneous public opinion that black people are arrested and offend at greater rates than white people.

¹ "The Essence of Innocence: Consequences of Dehumanizing Black Children," *Journal of Personality and Social Psychology*, published online Feb. 24, 2014; Phillip Atiba Goff, PhD, and Matthew Christian Jackson, PhD; University of California, Los Angeles; Brooke Allison, PhD, and Lewis Di Leone, PhD, National Center for Post-Traumatic Stress Disorder, Boston; Carmen Marie Culotta, PhD, Pennsylvania State University; and Natalie Ann DiTomasso, JD, University of Pennsylvania.

² "Not To Be Trusted: Dangerous Levels of Inaccuracy in TV Crime Reporting in NYC," published online March, 2015 colorofchange.org,
<https://s3.amazonaws.com/s3.colorofchange.org/images/ColorOfChangeNewsAccuracyReportCardNYC.pdf>





Similarly in Maryland, the news media contributes to both the implicit and explicit bias of people in their reporting on youth charged as adults by regularly publishing the names and photographs of youth charged as adults on their websites, papers and television screens.

Besides the troubling bias being unnecessarily created and/or reinforced, the fact is Marylanders are no safer if they have a name and image of an individual arrested for an alleged offense. What is important to convey to the public is that an alleged offense occurred and that a person or persons were arrested or need to be apprehended.

SB 314 preserves for our youth charged as adults the presumption of innocence and the degree of confidentiality commensurate with their young age. It extends existing juvenile confidentiality law to youth charged as adults pending the outcome of a determination on whether they will be tried in the juvenile or adult system. This bill carefully balances the needs of public safety and allows for the release of information if there is a young person that the police are seeking to apprehend for an offense for which a youth can be charged as an adult.

We urge this committee to issue a favorable report on SB 314.

Respectfully Submitted,

Ashley DeVaughn on behalf of the Maryland Youth Justice Coalition
Youth Justice Policy Director, Advocates for Children and Youth
410-547-9200 x3007



Sydnor_fav_SB314

Uploaded by: Erika Fountain, Bronwyn A. Hunter

Position: FAV

Senate Judicial Proceedings Committee
Bill #: SB314
Juveniles Charged as Adults - Confidentiality of Records
Bronwyn A. Hunter & Erika N. Fountain,
University of Maryland, Baltimore County
February 11, 2020
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

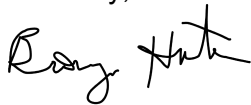
remain publicly available online. In fact, according to the 2018 Maryland Department of Juvenile Services Data Resource Guide, approximately 25% of youth who are remanded to juvenile court have their cases dismissed - but the public does not have access to this information. Most alarmingly, youth whose 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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CFYJ_Support_SB314

Uploaded by: Evans, Brian

Position: FAV



Testimony Concerning SB 314
Submitted to the Senate Judicial Proceedings Committee
February 11, 2020

Chairman Smith and members of the Committee:

My name is Brian Evans, and I have been a Maryland resident for over a dozen years, and am in my seventh year as a resident of Silver Spring in District 20. I am also the State Campaigns Director for the Campaign for Youth Justice, a national organization that works to end the incarceration and sentencing of children in the adult criminal justice system.

I represent myself and my organization in supporting SB 314, a bill that ensures that photographs or videos of a child charged as an adult are shielded from the public unless and until a judge rejects that child's motion to transfer his or her case back to juvenile court.

This legislation is important because of the large number of Maryland children who are automatically charged as adults without judicial review. In Maryland there are 33 offenses for which children are statutorily excluded from the juvenile system, and as a result Maryland charges more children as adults than almost any state in the country.

Children charged as adults in Maryland are afforded the opportunity to get their cases transferred back to the juvenile system, but in the meantime their status as adults means they lose the important privacy and confidentiality protections of the juvenile system. The time between the adult charge and the transfer hearing is usually measured in months, meaning that for many weeks these children's private information – like name, photograph or mug shot, address, date of birth – is publicly available and can be published widely in media outlets.

Even when children are successful in getting their cases transferred back to the juvenile system where they enjoy greater privacy rights – and most are – the information disseminated prior to their transfer will always be available. In the age of the Internet, once privacy and confidentiality are violated, they cannot be restored. This significantly damages a child's future employment prospects, since many employers run internet searches on potential employees.

The solution to this is to maintain children's privacy and confidentiality, even after they are charged as adults, unless their transfer hearing is unsuccessful. This is what SB 314 does.

Maryland should reform its current system in which large numbers of children are charged as adults, only for most of them to be transferred back to the juvenile system, and instead consider beginning all children's cases in juvenile court. But until that change is implemented, it is important to reduce the unnecessary harm inflicted on children inappropriately charged as adults. SB 314 does just that, so for the Campaign for Youth Justice and as a citizen of Maryland, I urge a favorable report on SB 314.

CAMPAIGN FOR

YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

RStreet_Support_SB314

Uploaded by: Mooney, Emily

Position: FAV



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Testimony from:

Jesse Kelley, Government Affairs Manager, Criminal Justice & Civil Liberties, R Street Institute

In SUPPORT of SB 314, “AN ACT concerning Juveniles Charged as Adults – Confidentiality of Records”

February 11, 2020

Senate Judicial Proceedings Committee

Chairman and members of the committee,

My name is Jesse Kelley, and I am the government affairs manager for Criminal Justice & Civil Liberties at the R Street Institute, which is a nonprofit, center-right public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. As part of this mission, our Criminal Justice and Civil Liberties team focuses on evaluating policies related to the criminal and juvenile justice systems as well as ways of effectively reintegrating the formerly incarcerated into society. Therefore, SB 314 is of special interest to us.

Each year, hundreds of Maryland youth are automatically charged as if they were adults in the criminal justice system.¹ Increasing privacy for those youth who are automatically placed in the adult system by requiring a “shield” from media publications prior to their transfer hearing is a critical step toward protecting young people from the stain of a publicized criminal arrest.

In fiscal year 2019 alone, more than 300 youth were transferred back to the youth system.² Those young people’s names and criminal charges were not protected during the period of time they were housed in the adult system, and that is a real problem.

It is impossible to “unring the bell” for those minors whose mugshot and arrest information has been publicly shared. The internet will forever remember and keep a record of them, creating a huge barrier for youth attempting to reestablish their lives after involvement with the justice system—and an extra barrier for those young people who are then transferred back into the juvenile court system. The juvenile system protects such information from being released publicly, but youth transferred from the adult system often find these protections are null and void due to the public nature of their original charges. As commented by Michael Pinard, professor and director of the Clinical Law Program at the

¹ Jeffrey Zuback, “Juveniles Charged as Adults in Maryland,” Governor's Office of Crime Control and Prevention, Dec. 12, 2018. <http://goccp.maryland.gov/wp-content/uploads/juveniles-charged-as-adults-201801-201806.pdf>.

² Maryland Department of Juvenile Services, “Data Resource Guide: Fiscal Year 2019,” December 2019, p. 116. https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2019_.pdf.

University of Maryland's Francis King Carey School of Law, this can lead to phenomena in which an arrest record tarnishes a person's future opportunities by "confirm[ing] a stereotype about an applicant based on race and socioeconomic status."³ Indeed, research has shown that criminal records have a deleterious impact on employment.⁴

Unfortunately, the bigger problem with Maryland's "transfer" system is that it allows for a child to be automatically charged as an adult. Charging kids as adults is not an effective mechanism to enhance public safety.⁵ Rather than increasing accountability or deterring crime, it can harm children and hinder rehabilitation.⁶ Minors in the adult system are at risk of victimization and solitary confinement, and are less able to access needed age-appropriate services.⁷ Furthermore, an adult criminal record can permanently hurt a youth's odds of accessing education, housing and employment. For these reasons, we believe it is in the best interest of youth to be first charged and housed in the juvenile system, with later allowance for a juvenile court judge to determine whether or not that young person has breached a threshold and should be tried as an adult.

Until current transfer and statutory exclusion laws are changed, we would ask that you advance SB 314 as a step toward reforming Maryland's juvenile justice system and protecting vulnerable youth from violations of privacy in the form of internet-accessible arrest records.

Thank you for your time,

Jesse Kelley, Esq.
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³ Tina Rosenberg, "Have You Ever Been Arrested? Check Here," *The New York Times*, May 24, 2016. <https://www.nytimes.com/2016/05/24/opinion/have-you-ever-been-arrested-check-here.html?auth=link-dismiss-google1tap>.

⁴ Devah Pager, "The Mark of a Criminal Record," *American Journal of Sociology* 108:5 (2003), pp. 937-970. <http://faculty.washington.edu/matsueda/courses/587/readings/Pager%202003%20Mark.pdf>.

⁵ Steven N. Zane, et al., "Juvenile Transfer and the Specific Deterrence Hypothesis," *Criminology and Public Policy*, July 26, 2016, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9133.12222>.

⁶ National Prison Rape Elimination Commission Report, June 2009. <https://www.ncjrs.gov/pdffiles1/226680.pdf>.

⁷ Irene Ng, et al., "Comparison of Correctional Services for Youth Incarcerated in Adult and Juvenile Facilities in Michigan," *The Prison Journal*, 2012. https://www.researchgate.net/publication/258194434_Comparison_of_Correctional_Services_for_Youth_Incarcerated_in_Adult_and_Juvenile_Facilities_in_Michigan/citation/download.

SB 314_FAV_ACLUMD_Nalley

Uploaded by: Nalley, Justin

Position: FAV



Testimony for the Senate Judicial Proceedings Committee

February 11, 2020

SB 314 – Juveniles Charged as Adults- Confidentiality of Records

FAVORABLE

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POLICY ANALYST,
EDUCATION

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GENERAL COUNSEL

The ACLU of Maryland supports SB 314, which would apply certain confidentiality provisions to juvenile police and court records while the youth's case is pending transfer between adult and juvenile court.

Studies show that employment opportunities can reduce recidivism rates.¹ Yet, for far too many Marylanders who were entangled in the criminal legal system as youth, a criminal record can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one's eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing

A criminal record can and does create a barrier to employment for many Marylanders. More than 80% of U.S. employers perform criminal background checks on prospective employees.²

More importantly for young persons, criminal convictions also serve to exclude them from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.³

¹ See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

² Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management*, Alexandria, Va.: Society for Human Resource Management, 2006.

³ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

Criminal convictions also hinder an individual's access to stable housing and a range of public benefits.

SB 314 will allow young people who have interacted with the criminal legal system to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy.

Criminal convictions disparately disadvantage individuals, families, and communities of color

The over-criminalization of communities of color has produced the startling result that one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latinx men, and one in seventeen white men.⁴ In addition to facing higher imprisonment rates, persons of color, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their white counterparts.⁵

With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from convictions. Exclusion from the job market, stable housing, and countless other crucial services perpetuates the cycle of imprisonment plaguing communities of color.

For the foregoing reasons, we urge a favorable report on SB 314.

⁴ Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (HUFFINGTON POST, Oct. 4, 2013).

⁵ *Id.*

Maryland Catholic Conference_FAV_SB 314

Uploaded by: O'Day, Garrett

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 11, 2020

**SB 314
Juveniles Charged as Adults - Confidentiality of Records
House Judicial Proceedings Committee**

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 314. The Catholic Conference represents the public-policy interests of the three (arch)diocese serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 314 applies confidentiality provisions to juvenile records pending a transfer determination from adult criminal court to juvenile court. The records to be shielded include all police and court records concerning the child from the time of arrest until a determination has been made regarding a motion for transfer to juvenile court.

This legislation removes barriers to a second chance for system-involved youth. The Church maintains that systems of justice must focus on rehabilitation and post-release barriers to things such as the ability to obtain gainful employment should be limited. The Conference is particularly concerned with ensuring that juveniles charged as adults are not treated “as though they are somehow equal to adults fully formed in conscience and fully aware of their actions.” (*Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice, USCCB, 2000*).

These tenets are particularly true regarding system-involved youth whose circumstances warrant a “waiver down” from the adult system to the juvenile system. Most notably in “waiver-down” instances, it is imperative that our system of justice safeguard future unintended consequences, such as records that could be used against system-involved youth seeking second chances later in life. This balance is especially important, considering that some seventy percent of youth held in adult jails have their cases dismissed entirely or remanded to the juvenile system. Only about ten percent of youth charged as adults are actually convicted as adults resulting in incarceration in the adult prison system. Thus this bill would provide warranted protections to the vast majority of such youth.

Senate Bill 314 is a reasonable measure to guard against destructive records that could forever memorialize past mistakes. This bill fosters future rehabilitation and redemption and, therefore, we urge your support and favorable report of Senate Bill 314.

Maryland Catholic Conference_FAV_SB 989

Uploaded by: O'Day, Garrett

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 11, 2020

SB 989

**Criminal Law - Hate Crimes - Penalty (Educate Against Hate Act)
Senate Judicial Proceedings Committee**

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 989. The Catholic Conference represents the public-policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 989 would add to the sentencing requirements for hate crimes, mandating at least eight hours of educational instruction relating to the group or community against whom the hate crime was committed.

In response to recent hate crime activity in our society, the Church, both in Maryland and nationally, has created committees to address racism and hate, spur dialogue, and develop action plans to address the issue. A fall 2019 report by the Maryland State Police cited 398 hate/bias incidents reported to law enforcement agencies in the State in the 2017 calendar year. In 2018, 375 hate/bias incidents were reported to law enforcement agencies in the State. The Church denounces such activity and supports commonsense measures to curb hate-motivated activity and foster understanding among its citizens.

Pope Francis has stated that the “problem of intolerance must be confronted in all its forms: wherever any minority is persecuted and marginalized because of its religious convictions or ethnic identity, the wellbeing of society as a whole is endangered and each one of us must feel affected.” (*Pope Francis, Address to a Delegation from the Simon Wiesenthal Center, 2013*)

Senate Bill 989 seeks not to further punish hate crime offenders, but rather to build understanding of the communities or persons against whom they are committed. In doing so, this legislation offers a simple, but meaningful, way of combatting hate crime recidivism through human understanding.

For these reasons, we urge a favorable report on Senate Bill 989.

Sydnor_fav_ SB314

Uploaded by: Senator Sydnor, Senator Sydnor

Position: FAV



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.

OPD FAV SB 314

Uploaded by: Shapiro, Melanie

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: SB 314 - Juveniles Charged as Adults - Confidentiality of Records
POSITION: SUPPORT
DATE: February 11, 2020

Current Maryland law requires that court and police records of children in the juvenile system be kept confidential, protected from the general public and maintained separate from adult records.¹ Court and police records for individuals facing charges in the adult system are not afforded similar protections, even when such individuals are in fact juveniles under 18 years of age. Thus, youth charged as adults often experience wide-ranging distribution of photos, videos and other uniquely identifying information across all kinds of social and commercial media. This information will likely be available to anyone with an internet connection in perpetuity. And this happens even in those cases where the youth's case is successfully transferred to the juvenile system after a judicial determination.

While the adult *court* records of youth charged as adults can eventually be expunged, no expungement exists for the images, articles etc. that a simple internet search can reveal. Ironically, the only information that an internet search will likely *not* reveal is the relatively positive outcome of the case; the successful transfer of the adult matter to juvenile court, because *that* information *is* confidential.

To avoid these kinds of needless and damaging disclosures, SB 314 extends, for a time, the juvenile confidentiality laws to youth initially charged as adults. There are exceptions allowed in this bill for the release of this otherwise confidential information when needed to apprehend a youth charged as an adult or for public safety.

Under current law, too many young people are effectively denied the protections of confidentiality and expungement because these laws do not apply until after the case has been filed in adult court, after names, images and other identifying information is

¹ See CJP § 3-8A-27.

broadcast all over the internet, and after the harm is beyond remedy. Because SB 314 fixes that, and for all of the above-stated reasons, OPD urges a favorable report.

Zyshawn_Support_SB314

Uploaded by: Shapiro, Melanie

Position: FAV

To: Chairman Smith, Vice-Chairman Waldstreicher, and Honorable Members of the Senate
Judicial Proceedings Committee
From: Zyshawyn Bryan
Date: February 11, 2020
Re: Testimony in Support of Senate Bill 314

Good afternoon, Mr. Chairman, Mr. Vice-Chair, and honorable members of the Committee. My name is Zyshawyn Bryan, and I am here in support of Senate Bill 314.

When I was 17, I was charged as an adult. I was brought to Baltimore's adult jail for a whole week, and then I was moved to BCJJC [Baltimore City Juvenile Justice Center]. I stayed at BCJJC from May to October 2017, waiting for my transfer hearing. I had my transfer hearing in October, and the judge decided to transfer me down to the juvenile system. She told me I would go to placement at Silver Oak Academy for 12 – 18 months.

At placement, I was totally focused on one thing: going home, and never getting sent back again. I learned a lot of skills there: how to get a job, how to be responsible, and how to be humble. It was pretty humbling, having to work really hard to earn things I wanted, like going off campus for a few hours or getting a home pass for the weekend. But I had a drive in me: I wanted to go home, and I wanted to make my mother proud. The best part was helping other kids at the placement earn those things too. I told them to stay focused, just stay focused on going home.

When I earned the right to go off campus, I got my first job working nearby at Chipotle. Seven months after I got there, I had enough credits to graduate from Silver Oak with my high school diploma. My mother came to the graduation. She was really proud of me.

They say when we're transferred to the juvenile system, our records will disappear. But that's not true. My case was picked up by the media right after I was charged. I found out about it right after I was booked at the adult jail, when I called my mother and she told me I was on the news. She was crying. The way she talked about it, they were showing it like I had killed someone, showing my mug shot and everything. It made me angry. I was a juvenile!

I thought it would go away when my case was moved to the juvenile system, but it didn't. I had to use the computer to take some pre-tests right when I got to Silver Oak, so I Googled myself. Then I saw it too. It's still there. It will never go away. It doesn't matter if my background check comes up clean; as soon as somebody looks my name up, BOOM. They're going to know.

Since I got home from placement, I've been doing really good. I'm an opportunity person, so I've done every program I can do. I go to work every day from 6:30 AM to 2:30 PM, and on Tuesdays and Thursdays, I stay late for apprenticeship classes. At CLIA, I'm learning how to be a public speaker and spokesperson for youth who've been through what I've been through. I'm on the right path. But for the rest of my life, for people who don't know me, I'll be the way the media showed me. People find out about it and say, "Don't be around him. He's crazy or something." They ask me all these questions. That's really hard for me when I'm just trying to move forward. I don't want the next kid to go through that. I don't want to have to tell them, "That job isn't going to call you back." We can't hold them hostage. We're crushing their futures.

That's my story. Think about my story, and please support Senate Bill SB0314 .

CLIA_Support_SB314

Uploaded by: Turner, Ryan

Position: FAV



To: Committee Chair, Judicial Proceedings
From: Maryland Youth Justice Coalition
Re: SB0314, Juveniles Charged as Adults - Confidentiality of Records
Date: February 11, 2020
Position: Support SB0314

Thank you for the opportunity to provide testimony on SB0314, Juveniles Charged as Adults - Confidentiality of Records. Advocates for Children and Youth (ACY) SUPPORTS this bill.

We urge this committee to issue a favorable report on SB0314.

In Maryland, youth 14- to 17-years old can be automatically charged as adults for one of 33 offenses. Judges are not involved in the charging decision. After being charged as adults, youth are usually detained in juvenile detention facilities pending a transfer hearing, in which a judge first hears the case to determine if the youth should remain in adult court or should be transferred to the juvenile system. This transfer hearing takes place, on average, 124 days (approximately 4 months) after a charge. When a young person is transferred to the juvenile system, their original adult charge is eligible for expungement. In Baltimore city, it is the public defenders' policy to automatically expunge this adult charge following a successful transfer.

During the period in which a transfer hearing is pending but has not yet happened, all information about the young person is publicly available. Since youth are almost always detained pre-transfer hearing, this has no impact on public safety. However, media outlets can publish all the youth's personal identifying information prior to the transfer hearing, including name, photograph / mug shot, physical address, and date of birth. Media outlets determine which charges are "story-worthy" enough to publish. Even if a young person is transferred to the juvenile system following media exposure, and even if his/her adult record is expunged, media coverage, especially on the internet, will never be erased.

This policy adversely impacts youth's employment prospects, since 77% of employers report running basic internet searches on potential employees, even though a judge determined that s/he should be transferred to the juvenile system. Such a policy increases the odds of the youth recidivating.

This critical legislation sponsored by Senator Sydnor and Senator Carter SB 341 ensures that youth photographs and videos are shielded from the public until a judge hears the transfer hearing. If the young person is transferred to the juvenile system, their personal information is protected by Maryland's strong juvenile confidentiality laws and information is not released, thus affording juveniles the full benefit of the judge's transfer decision.



Youth Voices for Community Change

Shielding a young person's case until a judge has heard it would have two positive benefits:

1. It would level the playing field so that the young person has a better shot at being transferred to the juvenile system: when a judge sees a mug shot in the morning paper, he's as likely to be prejudiced towards guilt/adultification of the young person as any of us. Shielding the young person from the media prevents this issue and ensures the youth charged in "high-profile" cases receive the same right to a fair hearing as youth who are charged in lower-profile cases;
2. It preserves the positive benefits of a transfer hearing. Even a youth's case is expunged off CaseSearch after a successful transfer hearing, there's no expunging media exposure, and a potential employer or landlord simply Googling his/her name can set the individual back long after the case was transferred.

For the past two years, CLIA and ACY have worked with a young person named Zyshawn Bryan, who experienced this personally. He was charged with armed robbery, which was picked up all the local media outlets, but transferred to the juvenile system. His adult charge was expunged from CaseSearch, but simply Googling his name returns four articles showing all the details of his adult charge (at 17 years old), the collateral consequences have not at all been diminished.

We urge this committee to issue a favorable report on SB0314.

Ryan Turner
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MCPA-MSA_FWA_SB314

Uploaded by: Mansfield, Andrea

Position: FWA



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 11, 2020

RE: **SB 314 – Juveniles Charged as Adults – Confidentiality of Records**

POSITION: **Support With Amendments**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 314 WITH AMENDMENTS.

MCPA and MSA worked with the Office of the Public Defender regarding amendments to this bill last year. With those amendments as passed out of the Senate, MCPA and MSA removed its opposition and supported the bill. When comparing this legislation with the bill from last year, MCPA and MSA found two stipulations missing in the section dealing with the release of a photograph – 3-8A-27(a)(2)(iv).

- Is the subject of a judicially issued warrant; and
- Is subject to the arrest for a crime or an act that would be a crime if committed by an adult.

MCPA and MSA has shared this matter with the Office of the Public Defender and hope to work with them and the Committee on amendments to this effect.

For this reason, MCPA and MSA SUPPORT SB 314 WITH AMENDMENTS and urge a FAVORABLE report with the language specified above.

MDJudiciary_UNF_SB314

Uploaded by: Jones, Tyler

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 314
Juveniles Charged as Adults – Confidentiality of Records
DATE: January 29, 2020
(2/11)
POSITION: Oppose as drafted

The Maryland Judiciary opposes Senate Bill 314 as drafted. This bill would amend the confidentiality provisions of certain records concerning a child who was charged as an adult.

This bill would does not specify with clarity the event that would trigger the confidentiality requirement under Criminal Procedure § 4-202. The phrase “pending a transfer determination” is unclear and needs clarification. The bill appears to both say the records are confidential “pending a transfer determination” and to say that the records are confidential within certain parameters, which parameters do not seem identical to “pending a transfer determination”.

cc. Hon. Charles Sydnor, III
Judicial Council
Legislative Committee
Kelley O’Connor