

# **SB93 - Juvenile Court - Youth Equity & Safety Act**

Uploaded by: Abigail Snyder

Position: FAV

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**Written Testimony**  
**Senate Bill 93 - Juvenile Court – Jurisdiction**  
**Judicial Proceedings Committee | February 16, 2023**

**SUPPORT**

**Background:** SB93, if enacted, would stop the automatic charging of youth in adult court. Currently in Maryland, children as young 14 can be automatically charged as adults for certain criminal charges.

***This bill does not preclude children to be tried as adults, it only precludes them from automatically beginning their legal process in adult court for certain criminal charges.***

**Written Comments:** Maryland sends more youth to adult court than any other state besides Alabama. In 2021, Maryland sent more children to adult court than Pennsylvania, Massachusetts, and Arizona combined.

Children who start in the adult system are more likely to regress and engage in more violent crimes. Further, choosing to charge these individuals as adults highlights large racial disparities, where over 80% of children charged as adults are Black. Unfortunately, those children are much more likely to receive longer sentences in adult prison than White children.

Services and treatment that are offered in juvenile facilities are evidence-based and preventative. By starting these cases in juvenile court, we not only save the state money and time, but also create better outcomes for these children.

The Baltimore Jewish Council believes that children are society's most vital future resources, yet one of its most vulnerable classes. When our youth are charged with crimes, great care should be taken to ensure that the justice system provides them with fair opportunities for growth. The mandatory charges of children as adults should be avoided at all costs.

**For these reasons, the Baltimore Jewish Council urges a favorable report on SB93.**

***The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies, and the Greater Baltimore Jewish community.***

**Written Testimony for MD Senate Bill 93 - 2.13.23.**

Uploaded by: Alice Wilkerson

Position: FAV

Senate Bill 93  
Juvenile Court – Jurisdiction (Youth Equity & Safety Act)  
Ending Automatic Charging of Youth as Adults  
February 16, 2023  
**Support**

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

We are the leadership team of the Juvenile Justice Research and Reform (JJR&R) Lab in the Department of Psychological and Brain Sciences at Drexel University. Our Lab works to promote best practices in the juvenile justice system by conducting research and using empirical findings to help system stakeholders more closely align justice system policies, procedures, and practices with adolescents' developmental capacities.

We submit this testimony to provide a social science research perspective **in support of SB93, the Youth Equity and Safety (YES) Act**, which would make the justice system in Maryland more equitable and aligned with adolescent developmental science by ensuring that all youth cases begin in the juvenile court system. Currently, in Maryland, youth as young as 14 can be tried in criminal court depending on the nature of their charges. During ongoing and future deliberations, we encourage the Committee to consider the research findings we describe below, **which all support passage of SB93, the YES Act**.

**Social Science Research: Youths' Capacities Relevant to Criminal Court Jurisdiction**

During adolescence and into young adulthood, youth brains undergo a substantial maturation process, resulting in considerable biological, cognitive, and psychosocial development. However, this maturation occurs gradually and unevenly, and growth in one system (e.g., the areas responsible for sensitivity to rewards) can often overpower more slowly developing systems (e.g., the areas responsible for impulse control). As a result, adolescents are more prone than adults to risk-taking behaviors and to acting without considering the long-term consequences of their actions. Thus, as the Supreme Court has repeatedly recognized,<sup>1</sup> adolescents should be considered less culpable than adults for their actions *and* more amenable to change. The adult criminal justice system is not designed with these youth characteristics in mind and, therefore, should not be the default venue for legally involved youth—especially given the fact that trying youth in criminal court appears to *increase* their risk for future recidivism.

**Adolescents Often Lack Cognitive Capacities to Understand and Appreciate Legal Rights and Court Procedures and to Make Informed Decisions**

Youths' age and developmental immaturity influence their cognitive abilities, suggestibility, compliance with authority, and overall decision-making processes. Because most juvenile defendants have below-average IQ scores and poor academic abilities, they are at a disadvantage when asked to engage in complicated decision-making processes.<sup>2</sup> This disadvantage is then exacerbated by the psychosocial factors of adolescence which make it difficult to balance long-term consequences with the short-term benefits of particular decisions (e.g.,

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<sup>1</sup> See *Miller v. Alabama*, 567 U.S. 460, 471 (2012); *J.D.B. v. North Carolina*, 564 U.S. 261, 269, 273 n.5 (2011); *Graham v. Florida*, 560 U.S. 48, 68 (2010); *Roper v. Simmons*, 543 U.S. 551, 569–70 (2005).

<sup>2</sup> See Erini Flouri et al., *The role of intelligence in decision-making in early adolescence*. 37 BRIT. J. DEVELOPMENTAL PSYCHOL. 101 (2019); Elizabeth Cauffman & Jennifer Woolard, *Crime, Competence, and Culpability: Adolescent Judgment in the Justice System*, in *THE DEVELOPMENT OF JUDGMENT AND DECISION MAKING IN CHILDREN AND ADOLESCENTS* 279 (Janis E. Jacobs & Paul A. Klaczynski eds., 2005).



to make intelligent plea decisions), consider situations from multiple perspectives (e.g., to work effectively with an attorney to predict what a witness might say), accurately weigh risks (e.g., to evaluate potential for success at trial), and meaningfully assess and appreciate time (e.g., to evaluate a plea bargain that would result in release at age 30 versus a trial that might result in incarceration until age 50). Stressful situations, such as police interrogation or threat of adult incarceration, can further compromise youth reasoning.

In fact, empirical research has found that young adolescents have a significantly greater risk than young adults of failing to meet thresholds of competence to participate in legal proceedings, as they often misinterpret their rights, misunderstand the role of defense attorneys, and fail to recognize legally relevant information and apply it to their own situations.<sup>3</sup> That risk is even greater for youth with below average IQ scores—a common characteristic of legally involved young people. Further, adolescents are more likely than young adults to make choices to comply with authority figures (e.g., agreeing with what they think an authority figure wants to hear regardless of their desire about how to proceed with a case) and less likely to identify the potential long-term negative consequences associated with their legal decisions (e.g., declining a plea bargain because they underestimate the risk and discount the consequences of a guilty verdict at trial). Taken together, these characteristics and risks call into serious question the appropriateness of charging adolescents as adults in a system that requires them to be able to make complicated, high-stakes decisions that will affect them into their distant futures—and in which court personnel (e.g., defense attorneys, prosecutors, judges) have less training and experience working with youth and identifying and addressing their unique needs and limitations.

### **Youth Typically Desist from Offending Behavior and are More Capable of Reform**

Although not all young people engage in antisocial behavior, some experts consider deviant, rule-breaking behavior—and even some instances of delinquency—normative for adolescents.<sup>4</sup> Over time, as individuals develop the executive functioning skills required to control their emotional impulses, they become less likely to engage in these types of behavior.<sup>5</sup> In fact, research suggests that more than 90% of justice-involved youth will no longer engage in criminal behavior by the time they reach their mid-20s.<sup>6</sup> These patterns of desistance are observed even among young people who engage in serious offenses,<sup>7</sup> and, as a result, even the commission of a heinous crime cannot be seen as evidence of an “irretrievably depraved character.”<sup>8</sup> Instead, youth should be viewed for their *potential for growth* and provided the proper supports.

Broadly speaking, juvenile justice systems in the United States emphasize rehabilitation over punishment. As an example, Maryland’s Department of Juvenile Services reports goals that include “ensur[ing] a continuum of care for justice-involved youth that is age- and developmentally appropriate” and “improv[ing] positive outcomes for justice-involved youth.”<sup>9</sup> In juvenile legal systems, youth must have access to educational services and, often, additional services tailored to their unique needs. In contrast, criminal systems have limited access to beneficial services for youth and present as much more punishment oriented. Further, youth confined in adult facilities are at increased risk of physical and sexual abuse and at greater risk for solitary

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<sup>3</sup> See, e.g., Heather Zelle et al., *Juveniles’ Miranda Comprehension: Understanding, Appreciation, and Totality of Circumstances Factors*, 39 LAW & HUM. BEHAV. 281 (2015).

<sup>4</sup> See, e.g., Baptiste Barbot & Scott R. Hunter, *Developmental Changes in Adolescence and Risks for Delinquency*, in HANDBOOK OF JUVENILE FORENSIC PSYCHOLOGY AND PSYCHIATRY 11 (Elena L. Grigorenko ed., 2012); Melanie Taylor et al., *Examining the Presenting Characteristics, Short-Term Effects, and Long-Term Outcomes Associated with System-Involved Youths*, in 3 ADVANCES IN PSYCHOLOGY AND LAW 211 (Monica K. Miller & Brian H. Bornstein eds., 2018).

<sup>5</sup> Kathryn C. Monahan et al., *Trajectories of Antisocial Behavior and Psychosocial Maturity from Adolescence to Young Adulthood*, 45 DEVELOPMENTAL PSYCHOL., 1654 (2009); Laurence Steinberg et al., *A Social Neuroscience Perspective on Adolescent Risk-Taking*, 28 DEVELOPMENTAL REV. 78 (2008).

<sup>6</sup> ELIZABETH SCOTT & LAURENCE STEINBERG, RETHINKING JUVENILE JUSTICE 52-53 (2008).

<sup>7</sup> E.g., Edward P. Mulvey et al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders*, 22 DEVELOPMENT & PSYCHOPATHOLOGY 453 (2010).

<sup>8</sup> *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

<sup>9</sup> *About Us*, MD. DEP’T OF JUV. SERVICES <https://djs.maryland.gov/Pages/about-us/About.aspx> (last visited Feb. 13, 2023).

confinement compared to those held in juvenile facilities.<sup>10</sup> Such experiences inflict additional trauma and psychological harm on young people who frequently already have significant trauma histories, likely contributing to the staggering increase in risk for suicide among youth in adult correctional facilities.<sup>11</sup>

### **Starting All Juvenile Cases in Juvenile Court May Address a Point of Racial Inequity**

There are documented racial disparities throughout the justice system across the United States and in Maryland. Youth of color are more likely to be processed as adults than white youth, even when charged with similar crimes. In Maryland, between 2017 and 2019, 93% of juveniles processed as adults were youth of color; 80% were Black.<sup>12</sup> Adult criminal processing of juveniles has a disproportionate and negative impact on youth and communities of color, and SB93 would advance equity by ensuring that all youth, regardless of race, begin their cases in juvenile court.

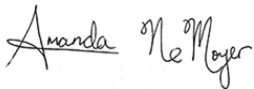
### **Charging More Youth in Criminal Court Fails to Keep Communities Safe**

In addition to producing more harm to individual youth, policies that promote processing youth in criminal court do not appear to achieve purported public safety goals. Specifically, a robust research literature has demonstrated that youth processed as adults demonstrate *higher* rates of subsequent rearrest than youth processed for similar offenses in juvenile court.<sup>13</sup>

**Given the social science research described above and elsewhere, we respectfully urge this committee to return a favorable report on SB93.**



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<sup>10</sup> EDWARD P. MULVEY & CAROL SCHUBERT, TRANSFER OF JUVENILES TO ADULT COURT: EFFECTS OF A BROAD POLICY IN ONE COURT (2012), available at <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/232932.pdf>; AM. CIVIL LIBERTIES UNION, BRIEFING PAPER: YOUTH IN SOLITARY CONFINEMENT IN ADULT FACILITIES (2013), available at [https://www.aclu.org/sites/default/files/field\\_document/toolkit\\_juvenile\\_solitary\\_briefing\\_paper\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/toolkit_juvenile_solitary_briefing_paper_final.pdf)

<sup>11</sup> CAMPAIGN FOR YOUTH JUSTICE, JAILING JUVENILES: THE DANGERS OF INCARCERATING YOUTH IN ADULT JAILS IN AMERICA 4 (2007) (“Youth are ... 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.”).

<sup>12</sup> VERA INST., PRELIMINARY FINDINGS: YOUTH CHARGED AS ADULTS IN MARYLAND (2020), available at <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>

<sup>13</sup> Robert Hahn et al., *Effects on violence of laws and policies facilitating the transfer of youth from the juvenile to the adult justice system* 56(RR-9) MMWR RECOMMENDATIONS AND REPORTS 1 (2007). (“To the extent that transfer policies are implemented to reduce violent or other criminal behavior, available evidence indicates that they do more harm than good.”).

# **YES Act Public Comments.pdf**

Uploaded by: Alice Wilkerson

Position: FAV



**Senate Bill 93**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**  
**Ending Automatic Charging of Youth as Adults**  
**February 16, 2023**  
**Support**

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

The Maryland Youth Justice Coalition is proud to present the public comments of **more than 100** Maryland residents who strongly support the Youth Equity & Safety Act. From Montgomery County and Baltimore City to Talbot County, the people of Maryland want to end the automatic charging of youth as adults. This document contains comments from adults who spent time in the juvenile system, relatives who've seen their family members automatically charged as adults, teachers, lawyers, and parents – Marylanders who all agree that every juvenile charge should start in juvenile court. The General Assembly must pass SB 93 and ensure that Maryland has a fair and efficient justice system.

**Public Comments:**

No child or young teen should be treated like an adult without a comprehensive evaluation evaluated by a judge. A prosecutor is striving for conviction, full-stop & will pursue that goal cause that's how they are evaluated. Do not end the life potential of a young person as a matter of inhumane procedure.

*Claire Landers, Baltimore County*

Children are kids—they do not have the developmental capacity to fully grasp the repercussions of their actions or the degree of emotional regulation that adults have. So they should not be prosecuted in adult courts! The focus with kids should be on supporting and rehabilitating them.

*Ronna Popkin, Montgomery County*

Judges are more qualified than police to make these decisions. It disproportionately impacts youth of color.

*Naomi Adams, Baltimore City*

Children need support not punishment. These are children.

*Perri Dejarnette, Carroll County*

Keeping kids in jail is easy, but it is not the right thing. Young people's brains tend to react differently under stress. What needs to happen is create more mentoring programs to give them opportunities.

*Niesha McCoy, Baltimore County*

I support this act because children should not be tried in adult court. The percentage of Black children tried in adult courts is shocking and a clear example of institutional racism at work.

*Christina Juhasz-Wood, Baltimore City*

This bill will keep our communities safer. Studies and experts agree, youth charged in adult court are almost 34% more likely to be rearrested and with more serious offenses as compared to youth who have their cases heard in juvenile court for the same charges. This bill will result in better outcomes over time for young people by starting their cases in the juvenile system, which has smaller caseloads, greater access to rehabilitation, and closer collaboration with families and schools. This bill gives prosecutors and judges MORE discretion. But more personally, as a defense attorney I have been forced to sit next to young Black men from Baltimore when they are facing adult prison sentences in court. Every time I have had to argue for the humanity of the child sitting beside me, it has broken a piece of my soul. This practice is a barbaric, racist relic of Maryland's segregationist and white supremacist past. I want a better future for my kids – and for all the kids I love in this city.

*Jenny Egan, Baltimore City*

I am convinced that auto charging is not a deterrent and does not make us safer. The racial and ethnic disparities in this practice place Maryland violate basic human rights and dignity.

*Kelly Quinn, Baltimore City*

There is a better chance to teach young people an alternative way of life, away from crime. We want to keep them from committing crimes later.

*Malka Kutnick, Montgomery County*

I support the YES Act because children who are sentenced as adults don't receive the correct resources for reform and support. The YES Act does not prevent judges from individually deciding to send a child's case to adult court. What it does do is prevent that from being automatic for certain crimes. In this way, we can help the children in our community get back on track in an environment suited for their age. Please pass the YES Act and support our community's future.

*Allison Evans, Prince George's*

Our default position should never be that a 14-year-old kid begins the criminal justice process in adult court. We must end this overly aggressive and racially unjust practice and leave such decisions to prosecutors and judges.

*Carl Graziano, Howard County*

We must stop this harmful practice that causes too many children to be locked up in adult jails and facilities where they are subject to physical abuse and don't get the education and other services they need. We must treat children like children and end this unjust practice.

*Melissa Goemann, Montgomery County*

Charging children as adults is extremely detrimental and increases recidivism. Having more mechanisms to keep young people in a youth-appropriate setting increases chances of rehabilitation.

*Alejandra, Montgomery County*

Kids should be treated like kids.

*Christina Gilbert, Montgomery County*

Although many of these children are reassigned to juvenile court, they are now stuck in adult jail for months or more awaiting that decision. Even if released, they are not afforded the services needed to overcome the conditions which contributed to their offending in the first place (if, indeed, they are guilty!) Punishment should not precede adjudication!

*Betsy Amey, Baltimore County*

I support the YES Act because it protects children from inappropriate placement in the adult criminal system while alleviating an unnecessary and expensive burden on the courts. Young people in our state deserve a more personal look at the reasons behind their actions and more help changing their path in life.

*Sandra Graziano, Howard County*

Minors should not be treated like adults in our criminal system as they are not equipped physically or mentally to be so.

*Erica Rapach, Montgomery County*

Because the resources are there for kids to be tried as kids.

*Andy Krew, Baltimore City*

Every case is NOT the same! Stop automatically charging children as adults, especially in cases where it's clearly not warranted. This bill will protect against causing more damage to an already traumatized child in need of appropriate interventions.

*T. Braveheart, Baltimore City*

The children should be younger and have more lenient sentences.

*William Wingo, Baltimore City*

I support the YES Act because the brains of children under 18 are not fully formed. They are incapable of exercising the same judgment as adults and therefore should never be held to the same standards. This is why we don't entrust students to vote, to drink, to enter the military, or to drive until they have reached a certain level of maturity. In addition, children are likely to be preyed upon by adult inmates when they enter prison. Finally, sentencing a child to jail is likely sentencing them to a lifetime of engagement with the prison system rather than offering a child a chance at rehabilitation and an opportunity for the life we all hope to have.

*Brian Slocum, Montgomery County*

Because it is not their fault to be born into a lousy system.

*Minda Baumstein, Baltimore City*

Young people in Maryland deserve every chance to succeed in life, and I believe the YES Act will result in better outcomes for young people in the criminal justice system.

*Mari Schimmer, Montgomery County*

As a retired historian, I know that the US has never granted Black children the same protections as white children. The failure to respect or even to recognize black childhood has its roots in slavery, with its brutal labor regime and its disregard for the integrity of black families. Today, the criminal justice system perpetuates this disregard—nowhere more so than when it treats Black children as if they were adults when appearing in court. The YES act rejects our history of disparate treatment and respects the developmental needs of all of Maryland's children.

*Toby Ditz, Baltimore City*

Our teens should not be subjected to these laws at such a young age. And facing adult charges at this stage of their lives, can condemn them to significant difficulties the rest of their lives. Change these laws.

*Steven Brigham, Prince George's County*

Children should be treated as children by default, not adults! Even children accused of crimes should have their dignity and youth respected.

*Vanessa Prell, Montgomery County*

Children need to be treated as children. If a judge decides, they can be treated as adults, but the default should always be to be treated in a juvenile court.

*Heidi Rhodes, Montgomery County*

Kids need to be treated in an age appropriate manner and should be kept in the juvenile system.

*Fran Zamore, Montgomery County*

Children should be treated as children and should be adjudicated in juvenile court not in adult court. Automatically moving kids to adult court and therefore to adult prison is racist and harmful to children. It is more fair to the child to let a juvenile court judge decide if a kid should remain in the juvenile justice system based upon the circumstances of the crime, the child's circumstances, etc.

*Jo Shifrin, Montgomery County*

Research shows that the adolescent brain is not yet fully developed. Adolescents should be part of the adult criminal justice system.

*Jeff Reiser, Montgomery County*

Children and youth need to be treated differently than adults. The present system seems unenlightened about children's issues in today's society. Passing this law has the potential to keep young people from being rearrested.

*Barbara Schaffer, Montgomery County*

This bill is very simple: it will improve racial equity in Maryland. Today is always the best time to act.

*Nathan Feldman, Montgomery County*



Maryland sends more young people to adult court based on offense type, per capita, than any other state except for Alabama. We should be better; we should do better. The YES Act will keep our communities safer. Studies and experts agree, youth charged in adult court are almost 34% more likely to be rearrested and with more serious offenses as compared to youth who have their cases heard in juvenile court for the same charges. This bill will result in better outcomes over time for young people by starting their cases in the juvenile system, which has smaller caseloads, greater access to rehabilitation, and closer collaboration with families and schools. We can and must treat our youth better. Maryland should join the 26 other states who have ended the automatic charging of youth as adults – we must pass the Youth Equity and Safety Act.

*Nicole Kaplan, Montgomery County*

Too many people end up in prison when they need mental health support. Stepping in at an early age can lead to better outcomes and help keep teens from cycling in and out of prison.

*Melissa Plotkin, Montgomery County*

I'm a dad to two young kids. I don't want them to grow up thinking that legislators are more concerned with punishment than helping our young folks learn and be an example of investing in our communities.

*Pulin Modi, Montgomery County*

Two reasons. One, the statistics show an alarming racial bias in the effect the current law has. Two, logically, the point of having juvenile courts is that we as a society agree that minor children and youth do not have the responsibility that an adult has. The quantity and severity of a child's actions have no bearing on whether the child has the capacity and responsibility of an adult. A child is a child.

*Evan Brettell, Prince George's County*

I support the YES Act because I have learned that: "Studies and experts agree, youth charged in adult court are almost 34% more likely to be rearrested and with more serious offenses as compared to youth who have their cases heard in juvenile court for the same charges." Because prosecutors will still be able to prosecute offenders in adult court, when appropriate, there is no reason for Maryland to continue this judicial form of systemic racism. If California, Pennsylvania, Massachusetts, and Arizona combined send fewer juveniles to adult courts, that is an enormous red flag that Maryland is out of step with common sense, fairness, and justice.

*Linda Murphy, Prince George's County*

It is the right thing to do.

*Barbara Gifford, Montgomery County*

Young people's ideas of law and justice are not fully formed until they are adults. Juvenile courts were designed to deal with youth. We should be embarrassed about how we treat youth offenders. We should keep them in juvenile court and juvenile incarceration

*Witold Skwierczynski, Baltimore County*

Kids aren't adults and shouldn't be in adult court. We shouldn't be sending kids straight from school to prison. Their brains aren't even fully developed.

*Stephanie, Washington County*

Efficiency matters! Black lives matter! Children are children and should not be automatically charged as adults.

*Leanora Winters, Calvert County*

MD needs to hold children accountable, but also remember each child's age makes a big difference. Scientifically, a child's brain by 14 just isn't fully developed. So, charging them as Adults would mean they'd be incarcerated with other Adults. This would be such a disservice to any child.

*Deborah Charles, Prince George's County*

Kids are kids. They are not fully developed mentally, which is the basis for many of the irrational decisions they make no matter how egregious. Many children are raising themselves or are being raised by individuals who are not the best role models.

*Shavon Myles, Prince George's County*

We are locking away our future – destroying too many futures.

*Dave Dittman, Howard County*

We need to stop treating our juveniles as adults in Maryland. The YES Act would move the state in the right direction.

*Marlee Miller, Washington County*

I support the YES Act because children are not adults! They deserve a system that honors their developing minds and offers them appropriate consequences.

*Judy Powers, Baltimore City*

We can do better as a State. We need to provide for these kids on the street – safety, education, training, opportunities = INVEST! For everyone's sake.

*Julia Hart, Talbot County*

From the statistic of 81% of the youth charged are black it is clear that the law is not applied fairly.

*Jane Arason, Anne Arundel County*

Children do not have the ability to reason like adults. We need to recognize that children are children and give them appropriate treatment, not lengthy incarceration aimed at hardened criminals.

*Judith Gelman, Montgomery County*

Our prefrontal cortex isn't fully developed until we are in our mid-20s. That's the part of the brain responsible for logical reasoning and decision-making. Yet Maryland treats children as adults when it comes to criminal law. If a person is not mature enough to vote, or buy cigarettes, or enlist in the military, they surely aren't mature enough to be treated as an adult in our criminal justice system.

*Danielle Rowland Lindahl, Anne Arundel County*

Juveniles deserve even more careful judicial decisions than do adults. Their whole adult lives shouldn't be clouded with disadvantage because of youthful mistakes of judgment.

*Lucy Duff, Prince George's County*

The YES Act just makes logical sense. 85% of cases involving minors that begin in the adult system end up either being returned to juvenile court or dismissed. Our courts are repeatedly deciding that these cases do not belong in adult court, so why should the law assume that's the venue in which they will be tried? Brain science, and our own experience once being children and knowing children, proves that youth have immense capacity for change. Kids belong in a legal system that is designed to meet their needs. The adult criminal legal system cannot do anything positive for kids. Let these cases start in juvenile court, where they belong, and let a judge decide if they should be moved into adult court.

*Rachel Gassert, Anne Arundel County*

My son will be 14 years old in a few weeks and it's terrifying to imagine that the goofy boy who often forgets to put socks on in the morning could be considered an adult if he commits one of the selected crimes. Children should start out in juvenile court by default, no matter what their crime.

*Mara Greengrass, Montgomery County*

This bill does not stop children from being prosecuted in adult court. It only requires that all children have their cases start in juvenile court. The need is supported by the fact the judges send 87% of cases in Maryland from adult court to juvenile court or dismiss them.

*Ran Zeimer, Baltimore City*

Children should not be held to the same standards of criminal liability as adults because they are literally unable to control their behavior as adults can; they are simply not as culpable for what they do. Moreover, children who commit crimes have tremendous capacity to change and grow and rehabilitate, which is hindered not helped by placing them in the adult criminal legal system. We treat children as children in every other area of the law, there is no reason to make an exception here.

*Joanna Silver, Montgomery County*

Kids should be tried as kids - even if they have committed a violent crime, they are still kids. Putting them with adults only increases their chances of recidivism. We don't send kids to graduate school with adults because they are not prepared. Why on earth would we send them to jail with adult criminals?

*Dana Lande, Montgomery County*

I have been an educator for over 50 years, committed to effective and equitable practices. I've also worked globally with youth, from Burmese Refugee Camps to not my sixth term at a post-genocide high school for vulnerable youth in Rwanda. Children are just that...still growing, going and learning about life in often traumatic and dramatic ways. They are, for the most part, evidence of their stories. They need support and legal management based on who they currently are - under-aged youngsters.

*Phyllis Lerner, Montgomery County*

Maryland needs to stop wasting taxpayer dollars and the court's time by starting cases in adult court. 87% of them are sent back to juvenile court or dismissed.

It's unjust to criminalize youth and prosecute them as adults. While their brains are still developing, they deserve the opportunity to learn from mistakes.

*Robin Yasinow, Montgomery County*

Our systems have let down Black children. We need to do more to support them before they get into trouble. That's where our focus should be, not on trying them as adults.

*Audrey Rothstein, Montgomery County*

Kids sent automatically to adult court might be on their way to becoming "thrown away kids". Statistics show much higher recidivism rates for them, rather than successful rehabilitation. The YES Act will allow judges more discretion to send kids to juvenile court, and keep them out of the adult system. It will untie the hands of the court.

*Mary Kirschman, Baltimore City*

Kids should be treated as kids. If they do something wrong, hold them accountable. But do it in a way that teaches them the right way to behave. Don't put them in an adult prison where they will learn more criminal behavior and will be likely to commit crimes again. Let the judge use his/her discretion.

*Jethro Lieberman, Montgomery County*

Children don't belong in adult court. They may lack the cognitive ability to understand their rights.

*Claire Freeland, Baltimore County*

It will save money, reduce strain on our court system, and produce better outcomes.

*Marc Friedman, Montgomery County*

This measure is the minimum we should be doing. Kids are kids. Ideally, they shouldn't be able to be charged as adults. Failing that, the least we can do is ensure that at least, there is leeway to allow charging children as children.

*Gidon van Emden, Montgomery County*

I don't understand why children over 14 are automatically charged as adults, unless the reason is that the justice system thinks Black youth (80% of those charged) are automatically mature. Also, outcomes for society (not to mention the youth in question) are generally better for youth charged in the juvenile justice system. There is nothing in the YES Act to prevent children being charged as adults in extraordinary circumstances. So yes, please pass the YES Act.

*Emily Blank, Prince George's County*

I support the YES Act because it is an important step towards using evidence based practices in response to harmful behavior. The data has shown our current response to youth crime actually contributes to youth reoffending when older. It is past time to end the punitive response to harm that continues to perpetuate mass incarceration.

*Braden Stinar, Baltimore City*

Say YES to common sense. Imprisoning children as if they were adults goes against what we know about brain development and is far more likely to turn them into adult criminals than any of the child justice alternatives.

*Stu Simon, Montgomery County*

I have been inside MD prisons as a volunteer for the Alternatives to Violence Project for over 20 years, and I have met young men who have been imprisoned since they were teens. Some have genuinely worked at changing their attitude and behavior. People, especially young people, have the ability to change.

*Nancy Hutchins, Frederick County*

Because kids are kids and should be dealt with as such.

*Deborah Amster, Montgomery County*

Children should not be treated or prosecuted as adults. The Courts of our country and state have accepted that children and juveniles are less culpable and more capable of change. They do not belong in the adult criminal system.

*Sarah Gottlieb, Baltimore City*

It would protect young people from the recidivism likely in charging them as adults; it would address racial and class disparities in prosecution.

*Claudia Leight, Baltimore City*

Children need support to stay in school and receive mental health care, social services, and rehabilitation. They will not get these as quickly if they are automatically charged as adults, especially children of color. Maryland has excessive rates of incarceration--we need to interrupt this system as early as we can in favor of restorative justice, especially for our youth.

*Deedee Jacobsohn, Montgomery County*

Juveniles should be held accountable for crimes they commit but should be given counseling, care, and support. Do not lock them up and discard them.

*Janeane Marks, Montgomery County*

Kids still have developing brains. We want them to learn and grow up to be responsible citizens, not be treated as if they're mini adults.

*Jessica Escobedo, Montgomery County*

There's a reason we treat kids differently than adults -- even when they make terrible terrible mistakes. We have to treat kids as we'd want our own kids to be treated.

*Jonathan Rochkind, Baltimore City*

The number of people of color that are incarcerated is incredibly disproportionate, and it often starts with treating juveniles as adults. We need to do better for our Black youth.

*Mike Morucci, Howard County*

As a teacher, I see that kids who act tough are still children inside. Trying children as adults penalizes children whose brains are not yet fully developed and who don't think through the consequences of their actions. And Black children are WAY more likely to be "adultified" than white children. Keep children who commit crimes in juvenile court for age appropriate sentencing.

*Lisa Hack, Montgomery County*

Because black youth matter. Automatic charging disproportionately affects Black youth and racial justice is always worth fighting for. Kids shouldn't have their entire lives destroyed because of one misstep. We all need Grace but especially youth.

*Hannah Freeman, Baltimore City*

My nephew has suffered from his practice of charging children as adults. He lived in New York State at the time, but Maryland has one of the worst records of children-prosecuted-as-adults. My nephew has spent decades overcoming early incarceration as a young teen. Stop this devastating practice and give young Marylanders a chance to mature into contributing adults--lifting up our communities.

*Susan Allen, Anne Arundel County*

Teens and 18 should not be treated as adults in the Maryland Justice System. Their development is still in process and their discernment and independent responsible decision making is not yet mature. That is why we have a separate juvenile justice system. Rehabilitation must be objective in the Juvenile Justice system, a goal that should not be undermined by subjecting underage violators to the adult criminal justice system.

*Jordan Harburger, Anne Arundel County*

Children are growing up these days surrounded by violent crime in their communities, on TV, in the movies. Many of them are not being raised to understand that this way of life is not acceptable. Children who commit crimes that currently would put them in adult court, need to be placed in a proper setting where they can be evaluated and taught a new way of life. That place is not an adult prison.

*Ruthanne Kaufman, Baltimore County*

Youth under the age of 18 are not adults. They are children and their minds are not yet fully developed. They should have the opportunity for rehabilitation, as the juvenile justice system would provide. Many youths charged with murder haven't killed anyone. They happened to be in the wrong place at the wrong time. Again, they are not adults; they are still children. Most cannot vote, cannot run for public office, cannot drink, cannot sign contracts. So, what makes you think that they should be charged as adults? They certainly don't look like adults. They are children and don't belong in adult prisons. They don't deserve to die in prison.

*Linda Indyke, Baltimore County*

Children are at the beginning of their lives. We hold them accountable but must use education, counseling and other services to give them another chance. We show great support to our own children. Let us show, at least, basic support to all the children in our community.

*Phil Miller, Baltimore County*

As a parent, I am very aware that children are very different from adults and deserve to be treated as children. Putting a child who is struggling in with adults who have committed crimes will NOT enhance that child's chances of moving in a positive direction.

*Camilla Day, Montgomery County*

Let's find ways to deal with children in developmentally appropriate and effective ways.

*Marla Zipin, Montgomery County*

Automatic charging of youth in adult court is wrong - the juvenile courts are designed to support consideration of children and determine whether transfer to adult court is warranted. This cruel approach directly harms people of color and was perhaps designed with that in mind to begin with. Let's end this practice.

*Charles Koplik, Anne Arundel County*



The YES Act (SB93/HB96) gives the courts some flexibility in being able to act up on and to manage jurisprudence over the youth here in Maryland. Every child and maturing youth makes mistakes based upon a brain that is not completely matured to think in a more complex far reaching manner. Those children who have done wrong based on impulsivity should be punished for the wrong action but also be corrected and further taught and trained to control their impulsivity and to make better decisions considering more on the long term consequences of their actions. It is not easy. Not for those youths who do not make criminal mistakes AND not for the youths that DO perform criminal actions. They truly need to be treated differently than adults who have a more mature capacity to determine their actions. Let's treat kids as kids. Medicine and mental health practitioners can confirm that kids are not just small adults. They are vastly different that function differently and act differently. Let's just incorporate those proven facts into our justice system. Thank you.

*Mark Sugarman, Baltimore County*

Trying children as adults has not been an effective way to prevent criminal behavior. Furthermore, teenagers are not mature enough to be tried and imprisoned as adults. While punishments may be necessary, we want to be thinking about the potential for youthful offenders to re-enter society and not offend again.

*Susan Tafler, Anne Arundel County*

Young people should be able to have their cases heard in juvenile courts, rather than adult courts. This would be both a) in the interest of fairness to young people and b) in the interest of the broader community's wellbeing. The information we have suggests that charging youths in adult courts tends to increase their chances of recidivism. This is based on comparison to youths who had their cases—for the same charges—go through juvenile courts. Youths should be treated as youths, not as full-grown adults.

*Grace Ferguson, Howard County*

Putting children in adult jails puts them at undue risk of being harmed and abused. This harm and abuse constitutes unreasonable punishment. By putting children in adult jails, we are stripping them of their constitutional rights. Children deserve respect and protection, including when they are arrested.

*Rachel Hale, Montgomery County*

I am a survivor of the pipeline to prison.

*KeSean Johnson, Baltimore City*

There's a reason the law treats youth offenders differently from adults. We recognize they are neither physically, mentally, or legally ready to behave or be held to the same standards. Those concerns are even greater the more serious the crime because even graver consequences are at play. At a minimum, juvenile cases should start in the juvenile system so that an appropriate analysis can occur before a case is sent to the adult courts. All of this is exponentially more important when we have data showing the discriminatory outcomes of the system.

*Avi Meyerstein, Montgomery County*

The more we learn about human brain development and the effects of trauma, the clearer it becomes that we need to stop punishing our young people. Children and young adults need help to change their behavior. Incarceration and other punishments designed for adults don't work on children. They don't work on adults, either, but brains that are still developing even more so. Let's stop turning troubled youth into adults with little to no hope. We can do better. We must do better.

*Tracie Guy-Decker, Baltimore City*

There is a reason why we have different charging rules for children and adults; children remain children. Society's inability to see black and brown children AS children is an enormous inequity that this Act can begin to solve.

*Karen Caplan, Montgomery County*

Kids should be held accountable when they make mistakes, but should be treated as children. Their cases should start in juvenile court, and it should be up to a judge to determine if the case should move to adult court. In the meantime, they will be able to access services and will be held with others their own age.

*Judy Tyson-Kopolow, Montgomery County*

Maryland should not be a leader in the country (2nd to only Alabama) in sending more youth to adult court based on offense type per capita! The YES – Youth Equity and Safety Act – bill does not stop children from being prosecuted in adult court; it only requires them to have their cases start in juvenile court. Right now, 87% of cases in Maryland that start in Adult Court are sent back to juvenile court or dismissed. What a waste of time, talent and taxpayers money.

*Miner Brown, Baltimore City*

Kids are kids. They have not finished developing their brains until they are in their late 20s. They think they are immortal & have no real understanding of consequence.

*Heidi Schloss, Baltimore City*

It's simply wrong to treat children the same as adults in the courts. Children often can not make independent decisions due to immaturity and strong influence of peers and adults. There is a serious racial imbalance in application of criminal codes which is important to overcome. But frankly resolving this problem goes way beyond racial disparity

*Mark Wolff, Montgomery County*

For so many reasons. Children deserve to be treated as children. There is so much harm from starting kids out immediately in the adult system. Harm to the child, to their families, to the future.

*Jacquelyn Shelton, Baltimore City*

The YES Act addresses a civil rights issue considering most of the kids it will help are African-Americans who have felt the brunt of legal discrimination. Likewise, it promotes public safety by reducing recidivism caused by jailing teens into the adult system.

*Marlon Tilghman, Harford County*

We know children are not adults. We know that youth incarceration is wrong for so many reasons. We know Maryland automatically sends more kids to adult court than CA, IA, MA, AZ, and PA combined. This must stop. That's why I support the YES Act.

*Peta Richkus, Baltimore County*

Children are children. Period. No act or behavior changes that fact. Support, educate, and care for our children. We are locking up and criminalizing our own future instead of encouraging and empowering them to create a better future. "

*Kelli Cover, Baltimore City*

This legislation will help Maryland join other states that have committed to providing our young people with opportunities to rehabilitate after offenses. Juvenile courts exist for the purpose of allowing juveniles fair and equitable treatment. Let's fully use it and give them a shot at making better choices.

*Christopher Blackwell, Baltimore City*

Children are children. 14 isn't an adult. Their brains aren't even fully developed.

*Rivka, Prince George's County*

As an educator in Baltimore City, I learned the importance of holding kids accountable with care. Kids should have the opportunity to be treated as kids and learn from their mistakes. By automatically being charged as adults, they miss out on closer collaboration with families and schools that could help improve their chances of avoiding rearrest for more serious offenses. Having the opportunity to be charged in juvenile court gives kids a better chance at becoming productive and contributing citizens while keeping our communities safe. I support the YES Act because it will treat our youth better and help build a more just Maryland.

*Rachel McGrain, Baltimore City*

Automatically charging children as adults for certain offenses is not only immoral, it's not working to reduce crime. Further, this practice disproportionately affects Black children. Children are growing and developing. They are not adults. They are not ruined or beyond help or redemption. Stopping this practice will help decrease mass incarceration and criminalization of Black children.

*Karen DeCamp, Baltimore City*

Children are not adults. And we do not treat them as adults when it comes to anything other than putting them in jail. This is a shameful, ageist, and racist practice, and in addition to those problems, it also doesn't result in the rest of the public being safer.

*Angela Burneko, Baltimore City*

Common law understands that children should be treated differently from adults in the judicial system. Laws that charge children as adults go against natural justice.

*Fergal Mullally, Baltimore City*

The current state of the justice system where children are charged as adults needs reform. It is white supremacy without question

*Eze Jackson, Baltimore City*

I support the YES Act because it is WRONG to treat children/teenagers the same as adults. There is research that shows the brain is still forming and adolescent brains are NOT the same as adults.

*Carla Trevizo, Howard County*

Brains are not fully developed until 25. Automatically trying juveniles as adults goes against the science that they have the same brain capabilities as adults. Additionally auto charge takes autonomy away from those involved in the case who may have better information as to how to proceed.

*Elizabeth Testa, Baltimore County*

Automatic charging of children as adults is needlessly cruel. It presumes that children as young as 14 are not, in fact, children at all based on the offense they are charged with. This bill still allows judges to use discretion and decide to charge a child as an adult on a case by case basis, but requires that all children have their cases begin in juvenile court, as they should be.

*Elise Desiderio, Baltimore City*

I support the YES Act because charging juveniles as juveniles one, it prevents them from being detained with adults which puts them at significantly increased risk for sexual abuse, solitary confinement, and attempted and completed suicide (which, yes, can and does happen even during the first few days detained while awaiting a hearing); two, it provides for a more holistic, therapeutic, rehabilitative, and accountable justice experience for charged youth, is proven to better support youth in reintegrating into society via the education and therapeutic supports they receive while incarcerated AND when released (that youth charged as adults do not receive), and three, because research shows us that it leads to lower rates of recidivism and higher public safety. Isn't this what everyone wants? Plenty of other states have ended automatic charging of youth as adults; there's already a roadmap for this. Why is Maryland waiting?

*Laura Camarata, Prince George's County*

My son was charged immediately with 2nd degree murder and only after his attorney petitioned for a juvenile transfer, was juvenile court considered. His transfer hearing seemed like a farce and he was ultimately denied. We are now 10 years later and he accepted a plea of suspended time which we knew would ultimately land him back in jail for any violation. Kids are kids and their cognitive thinking is different and they need mental health services along with the punishment of incarceration.

*Walidah Yaminah, Baltimore City and Anne Arundel*

Children's brains are not fully developed. They need to be tried as juveniles.

*Carol Rice, Baltimore City*

The school-to-prison pipeline must be stopped!

*Perish Barnette, Baltimore City*

All cases, regardless of the seriousness of the offense, should begin in juvenile court because a decision to transfer a case involving a young person to adult court should be based on an individualized assessment of the particular young person, not simply on the offense.

Research confirms that laws that facilitate trying young people in adult court do not have the desired deterrent effect and increase the rate of recidivism. Youth charged in adult court are more likely to be rearrested with more serious offenses compared to youth who had their cases heard in juvenile court for the same charges.

*Daisy Thompson, Montgomery County*

Children's brains are not fully formed. Children who commit crimes are little adults. They can be held accountable and the community can be kept safe in other ways.

*Alison Snow, Montgomery County*

As a physician I know that teenagers should not be charged as adults. Their brains are not fully formed. Teenagers need care and rehabilitation. Jailing them only leads to recidivism.

*Kate Sugarman, Montgomery County*

As a family physician, I know that adolescent brains are fundamentally different from adult brains - our justice system needs to acknowledge this. We must start from a place of assuming teenagers are acting as teens, rather than adults.

*Jessica Friedman, Baltimore City*

I support passing the YES Act and ending autocharge. This is an issue of racial justice. Maryland should join the 26 other states who have ended the automatic charging of youth as adults.

*Bilal Askaryar, Baltimore City*

I support the YES Act because I believe it will result in a safer, more just community. Juveniles should not be automatically charged with adult crimes, as this means youth are then booked and processed in the adult system. Youths charged as adults are more likely to experience physical abuse, sexual abuse, and isolation from their families than youths charged through the juvenile court system. Moreover, youths processed through the adult criminal system are less likely to receive rehabilitative services, which leads to an increased risk of recidivism. According to the US Dept. of Justice, to best achieve reductions in recidivism, we need to minimize the number of juveniles that enter the criminal justice system; this is why I support the YES Act.

*Amy Ruddle, Montgomery County*

Automatic incarceration for young people 18 or young is not a good idea. Many studies have shown that rehab – and I do not mean a change gang – has shown that there is a much reduced rate of recidivism when properly used.

*Graydon Moss, Montgomery County*

As a teacher for almost two decades, I have had a lot of experience working with youth. Their brains are still developing and it is our responsibility as adults to steer them onto paths that are most beneficial to them socially and emotionally, and also to our community. Nobody benefits when youths are automatically treated like adults when they make a mistake – we need prosecutorial discretion in dealing with individual cases of children who have been, more often than not, mistreated, neglected, or otherwise not supported.

*Ioana Stoica, Prince George's*

There may be no surer way to increase the risk that a young offender will become an adult criminal than to automatically charge him or her as an adult and put him or her on the path to prison. Criminal court should be reserved for the most egregious cases, and the default in all cases should be to charge as a juvenile. This will make our state safer in the long run.

*Steve Metalitz, Montgomery County*

As an adult who spent juvenile time going through the court system, I know the effect the process has on the young brain. Let us as a community not inflict undue stress upon people who are finding themselves in dire straits from conditions that they did not create. If the majority of cases are moved to adult court and then back down to juvenile court, it almost seems to me to be a wasteful and abusive use of state funds. We should make sure that Maryland is leaning forward in the foxhole to find solutions for youth offenders beyond auto charging.

*KeSean Johnson, Baltimore City*

**SB#93\_AmyRuddle\_Favorable.pdf**

Uploaded by: Amy Ruddle

Position: FAV



**Senate Bill 93**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**  
**Ending Automatic Charging of Youth as Adults**  
**February 16, 2023**  
**Support/Favorable**

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

My name is Amy Ruddle and I am a resident of District 20. I am a small business owner, attend Temple Emanuel synagogue, and am a volunteer and advocate with NAMI Montgomery County. Today, I am submitting this testimony in support of SB93, the Youth Equity and Safety Act, which would make our communities safer and make our youth justice system more equitable by ensuring that all juveniles begin their cases in the juvenile court system.

Maryland sends more young people per capita to adult court based on offense type than any other state except for Alabama.<sup>1</sup> A major reason is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses, a practice that puts us out of step with 26 other states and the international human rights law. When young people – some as young as 14 – are automatically charged in adult court, they are more likely to reoffend, sooner, with more violent crime than children who are charged in juvenile court. This practice undermines the purpose of the juvenile court system, pursues punishment rather than rehabilitation, and makes our communities less safe. Furthermore, laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States.

I support the Youth Equity and Safety Act because I believe that kids should be treated like kids and should not automatically be charged as adults and processed through the adult criminal justice system. Moreover, it is known that youth of color are overrepresented at every stage of the Maryland court system<sup>2</sup>, and they are more likely to receive harsher sentences than white youth charged with similar crimes<sup>3</sup>. Ceasing the punitive practice of auto-charging youths as adults would help remedy the racial inequities that characterize the United States criminal justice system. Maryland should join the 26 other states who have passed laws to **treat kids like kids and end automatic charging**.

**I respectfully urge this committee to return a favorable report on SB93.**

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<sup>1</sup> <http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

<sup>2</sup> Hagan J, Shedd C, Payne MR. Race, ethnicity, and youth perceptions of criminal injustice. *American Sociological Review*. 2005;70(3):381-407. See also, *DJS Data Resource Guide FY2021*, 241. [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2021.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf).

<sup>3</sup> Soler M. Health issues for adolescents in the justice system. *Journal of Adolescent Health*. 2002;31(6):321–333.

**Bill SB0093 Testimony.pdf**

Uploaded by: Anisha Thomas

Position: FAV



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[www.rocainc.org](http://www.rocainc.org)

Date: Feb 16, 2023  
Bill # / Title: SB093 - Juvenile Court – Jurisdiction  
Committee: Judicial Proceedings Committee (JPR)  
Position: Support

## **ABOUT ROCA**

Roca is an internationally recognized organization moving the needle on urban violence by working relentlessly with young people at the center of it. Roca's four-year Intervention Model features relentless outreach to young people; a highly portable and relatable version of cognitive behavioral theory (CBT); and opportunities to practice skills, relapse, and repeat, through trauma-informed employment, education, and life skills programming. And because it takes all of us, Roca helps institutions like police, probation, and parole change the way they work with traumatized young people.

## **ROCA BALTIMORE**

In 2018, Baltimore's civic and corporate leaders invested in launching Roca's first national replication in the City of Baltimore. Four years into this work, Roca Baltimore has worked with 445 young men (ages 16-25) in the city and achieved unprecedented coordination with the Baltimore Police Department, Maryland Department of Juvenile Services, and Maryland Department of Probation & Parole. Roca leadership has also been working with the Baltimore County Executive and his team to plan and launch work with up to 40 young men in Baltimore County, focusing on the Essex/Dundalk Area. Roca has already begun to meet with young men referred from MD DJS. The Roca Impact Institute has also provided several trainings for Baltimore County Police on brain science and emotional regulation.

## **Roca 2019-2022 Outcomes**

- ✓ 445 Young Men Served
- ✓ 79% **NOT** Re-Arrested after 2 Years of Enrollment
- ✓ 98% **NOT** Re-Incarcerated after 2 Years of Enrollment

## **ROCA IMPACT INSTITUTE AND MARYLAND DEPARTMENT OF JUVENILE SERVICES GRANT**

Roca and the Maryland Department of Juvenile Services (DJS) are engaged in a unique joint initiative designed to accelerate juvenile justice transformation and emphasize models of violence prevention that focusses on adolescent brain science, the impact of trauma, and Roca's unique Rewire cognitive behavioral theory as a community-based intervention.

In 2021, DJS received a federal grant from the US Department of Justice of more than \$996,000 designed to ensure that youth under DJS supervision will learn skills for emotional regulation and healthy decision-making and ultimately promote successful leaders in the community. Through the partnership with Roca's Impact Institute (RII), DJS is working to expand upon its current agencywide reform agenda to complete an intensive planning process that includes the use of data and review and restructure of community-based services, ensuring that services are best aligned with the pressing needs of the highest-risk young people and allowing probation staff to deliver interventions that are



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research-based, trauma informed, and aligned to the developmental needs of young people in their care.

#### **ROCA COORDINATION WITH LAW ENFORCEMENT**

Under the consent decree, the Department of Justice has approved that The Roca Impact Institute will prepare BDP staff to train an estimated 2,000 Baltimore City Police Officers in Rewire<sup>4</sup>, an adapted version of Rewire CBT that is designed for police working on the front lines of violence. This work will launch in 2023. Rewire<sup>4</sup> is different from traditional police training, which is often focused on tactics, but does not necessarily address why people react the way they do in the moment. Rewire<sup>4</sup> is designed to build a foundational understanding of brain science and how the impact of trauma fuels many common high-intensity encounters. Rewire<sup>4</sup> then teaches officers research-based methods to better engage with the community when policing, increase understanding of adolescent and young adult behavior, and promote officer wellness.

#### **ROCA SUPPORTS SB 93**

Roca's mission is centered around identifying and connecting evidence-based efforts to young people at the center of violence. Roca's actions directly focus on healing the trauma young people experience and creating pathways for behavior change, which has resulted in a reduction of violence and a reduction of incarceration for those young people we serve. To that end, Roca very much believes that young people should be treated in the system best designed to meet their individual needs based on their adolescent development, and therefore firmly supports ending the automatic charging of youth as adults in Maryland.

We know young people can change; we know when we invest in young people, we create safer communities. Together with engaged institutions, violence prevention collaborations, and the commitment to equip frontline staff with the tools to support behavior change - Maryland is positioned to forward and effectively implement the provisions of SB 93.

For these reasons, Roca urges a favorable report on SB 93.

# **SB 93- Juvenile Justice testimony-UULM-MD-Support-**

Uploaded by: Ashley Egan

Position: FAV



## Unitarian Universalist Legislative Ministry of Maryland

### Testimony in Support of SB 93: Juvenile Court – Jurisdiction

TO: Senator Will Smith, Jr. Chair and Members of the Judicial Proceedings Committee  
FROM: Karen “Candy” Clark, Unitarian Universalist Legislative Ministry of Maryland  
Criminal Justice Lead Advocate  
DATE: February 16, 2023

The Unitarian Universalist Legislative Ministry of Maryland (UULM-MD) asks for a favorable report for **SB 93: Juvenile Court – Jurisdiction**.

The issue of Juvenile Justice calls us to uphold our second principle- compassion, equity and justice for ourselves and society. The growth and development stages of juveniles and adults are too different to automatically give similar sentences on criminal behavior. Automatic charging of juveniles as adults is NOT fair. Every criminal situation needs to be evaluated keeping the physical and mental condition of the perpetrator in mind, as well as the age. By beginning each juvenile offender in the juvenile system, the juvenile can be better assessed to see if they are eligible for services– which are more available in the juvenile system than the adult system– that could help the juvenile to transform into someone who contributes to society instead of another number in the system.

Starting them in adult prison is not only more time consuming and expensive , but it has a detrimental mental impact on the juvenile, even if they are then transferred to the juvenile system. The bill does still allow a prosecutor the discretion to charge and try violent offenders of horrific crimes as adults, as well.

Maryland’s prisons have the worst racial population disparity in the country. Blacks make up 30% of the state population, but they make up about 70% of our prison population! Some of this begins while they are juveniles. Again, while composing about 30% of the population under 13 years old, black students, mostly boys, make up 84% of Maryland’s under 13 **incarcerated** population! Of the juveniles charged as adults, 93% were boys and 88.77% were black. (Statistics from the DJJ 2023)

Prison research reveals that being “Smart on Crime” is more effective than being “Tough on Crime.” We can show compassion AND be “Smart about Crime” by involving our juveniles, while restricted, in educational and rehabilitative programs which are not as readily available to them in adult prisons.

The UULM-MD asks for a favorable vote on SB 93.

Respectfully submitted,  
*Karen Clark*

**UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,**

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**YEJ Clinic, SB 0093 Written Testimony - Fav.pdf**

Uploaded by: Aurie Serrette

Position: FAV

**Testimony in Support of Senate Bill 0093 (Favorable)**  
**Juvenile Court Jurisdiction**

To: Senator William C. Smith, Jr., and the Members of the Judicial Proceedings Committee

From: Aurie Serrette and Rebecca Cumberbatch, Student Attorneys, Youth, Education, and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W Baltimore St. Baltimore, MD 21201 (admitted pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar).

Date: February 15, 2023

We are student attorneys in the Youth, Education, and Justice Clinic (“the Clinic”) at the University of Maryland Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children or young adults. We write in support of Senate Bill 0093, The Youth Equity and Safety Act. If passed, SB 0093 would end the unjust and scientifically unsound practice of automatically charging Maryland’s children in adult court.

Maryland has the opportunity to join 26 other states that have passed laws limiting children’s contact with the adult court system. Seven of those states automatically start all children’s cases in juvenile courts. If passed, SB 0093 would make Maryland the eighth state to take this step in promoting racial justice, following scientific evidence, reducing crime, and increasing efficiency in our courts.

Nearly one-third of Marylanders are Black. In stark contrast, Black youth comprise over 80% of children charged in adult court in Maryland. Consequently, Black children are disproportionately sent to adult prison and receive longer sentences than their white counterparts for similar offenses. By ensuring that juvenile cases are heard in the appropriate court for their age and level of brain development, SB 0093 promotes racial justice to protect Maryland’s Black children from these disparities.

Charging children as children, while intuitively just, is also backed by neuroscience. The prefrontal cortex, the brain structure that allows a person to fully understand the long-term consequences of their actions, does not fully develop until adults reach at least twenty-five years of age.<sup>1</sup> It is not until this age that adults tend to gain certain cognitive skills, such as the ability to delay, reflect, consider alternatives, contemplate risks and long-term consequences, and have situational

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<sup>1</sup> Mariam Arain et al., *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE AND TREATMENT 449, 453 (2013), [NDT-39776-maturation-of-the-adolescent-brain \(dovepress.com\)](https://doi.org/10.1007/s12287-013-9377-6).



awareness.<sup>2</sup> In contrast, children are vastly more impulsive and therefore vulnerable to peer pressure and risky behavior. Automatically charging children in adult court ignores the brain science and denies children the evidence-based services, supports, and treatment available in the juvenile legal system.

Charging children as adults also undermines public safety. In reviewing six studies that measured subsequent criminal activity of children whose cases were transferred to the “adult justice system” compared to children who remained in the juvenile legal system, the Centers for Disease Control and Prevention explained that four “found an undesirable effect”; meaning that the transferred children committed more subsequent crime than the children who remained in the juvenile legal system.<sup>3</sup> Specifically, the Center found that in these four studies, there was a “34% “overall median. . .increase in subsequent violent or general crime for transferred [children] compared to retained [children].”<sup>4</sup> Also, children charged as adults are uniquely susceptible to physical assault and sexual abuse when incarcerated in adult facilities. In addition, they are more likely to be isolated from their families and communities during their incarceration and, as a result, suffer from depression and anxiety. These realities contribute to future involvement with the criminal legal system.<sup>5</sup> In the end, these children are more likely to commit suicide.

Judicial waiver is most effective to ensure that Maryland’s children are being charged and adjudicated appropriately.<sup>6</sup> Giving judges the discretion to determine where to ultimately charge children will give Maryland’s children a fairer chance of being adjudicated appropriately.

Senate Bill 0093 is an important step towards aligning Maryland’s criminal legal system with the brain science, addressing the over-criminalization of children, and reducing the racial disparities that plague the criminal legal system. For these reasons, the Youth, Education, and Justice Clinic asks for a favorable report on this bill.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Carey School of Law and not on behalf of the School of Law or University of Maryland, Baltimore.

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<sup>2</sup> Morgan Tyler, *Understanding the Adolescent Brain and Legal Culpability*, AMERICAN BAR ASS’N (Aug. 1, 2015), [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-34/august-2015/understanding-the-adolescent-brain-and-legal-culpability/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/august-2015/understanding-the-adolescent-brain-and-legal-culpability/)

<sup>3</sup> ROBERT HAN, PHD, ET AL., DEP’T OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION, EFFECTS ON VIOLENCE OF LAWS AND POLICIES FACILITATING THE TRANSFER OF YOUTH FROM THE JUVENILE TO THE ADULT JUSTICE SYSTEM, 56 MMWR 1,7 (2007).

<sup>4</sup> *Id.*

<sup>5</sup> E.g., *Advocates push to end the automatic charging of juveniles as adults in certain crimes*, PBS News Hour (Nov. 22, 2022) <https://www.pbs.org/newshour/show/advocates-push-to-end-the-automatic-charging-of-juveniles-as-adults-in-certain-crimes>

<sup>6</sup> Ronald F. Means, MD, et al., *Transferring Juvenile Defendants From Adult to Juvenile Court: How Maryland Forensic Evaluators and Judges Reach Their Decisions*, 40 J Am Acad Psychiatry Law 333, 338-39 (2012) <https://jaapl.org/content/jaapl/40/3/333.full.pdf>

**Senate Bill 93 testimony.pdf**

Uploaded by: Beverly John

Position: FAV

**Senate Bill 93**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**  
**Ending Automatic Charging of Youth as Adults**  
**February 16, 2023**  
**Support**

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

My name is Beverly John. I am submitting this testimony on behalf of The Talking Drum Incorporated, a Maryland non-profit with a mission to eradicate systems of oppression that lead to homelessness and mass incarceration. We are in support of SB93, the Youth Equity and Safety Act, which would make our communities safer and make our youth justice system more equitable by ensuring that all juveniles begin their cases in the juvenile court system.

Under the current law, Maryland sends more young people per capita to adult court based on offense type than any other state except for Alabama.<sup>1</sup> A major reason is that Maryland law requires some children to be automatically prosecuted in adult court for 33 offenses – putting us out of step with other states and international human rights law. Last year, Maryland charged the same number of children as adults as Arizona, California, Colorado, Connecticut, Illinois, Kansas, Massachusetts, Minnesota, and Ohio combined. Those states make up 29% of the United States youth population – Maryland makes up less than 2%. In Maryland, youth as young as 14 can be tried in adult court depending on what charge a police officer decides to levy against them.

Automatically charging youths as adults expose our youth to physical and sexual violence and isolation. The YES Act protects youth. Youth in the adult system are less likely to receive rehabilitative services and does not improve public safety. To the contrary, research shows that young people charged in adult court are more likely to reoffend than children who are charged in juvenile court.

I experienced a real-life example of the harm caused to a young person in the adult system some years ago while providing support to a young mother with young children over the holidays. Her oldest was being held in DC jail at the time. I met with the family and scheduled to bring Christmas gifts to her on Christmas Eve. I arrived at her home and texted to let her know I arrived. When she didn't answer the text or phone, I went to the apartment and knocked on the door. I was not expecting her to come to the door in tears and distraught. The younger children were clearly upset as well. Through tears, she informed me that her son was dead. He had been hung in his cell. The jail said it was suicide. Of course, there were questions that went unanswered as this mother contemplated the last moments of her child's life.

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<sup>1</sup> <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

Laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States. Youth of color are overrepresented at every stage of the Maryland court system.<sup>2</sup> Rampant racial inequities are evident in the way youth of color are disciplined in school, policed and arrested<sup>3</sup>, detained, sentenced, and incarcerated.<sup>4</sup>

Research shows that youth of color receive harsher sentences than white youth charged with similar offenses.<sup>5</sup> And, youth of color are more likely to be tried as adults than white youth, even when being charged with similar crimes. In Maryland between 2017-2019, 93% of juveniles tried as adults were youth of color; 80% were Black.<sup>6</sup>

The current narrative being shared at Public Safety Forums enhances a fear of our own children as dangerous criminals to be punished. The data that has been shared is somewhat misleading. If we take a moment to listen to our youth and include them in the conversation, I believe we will have better outcomes. We can and must treat our children better. Maryland should join the 26 other states who have passed laws to **treat kids like kids and end automatic charging.**

**I respectfully urge this committee to return a favorable report on SB93.**

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<sup>2</sup> Hagan J, Shedd C, Payne MR. Race, ethnicity, and youth perceptions of criminal injustice. *American Sociological Review*. 2005;70(3):381-407. See also, DJS Data Resource Guide FY2021, 241.

[https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2021.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2021.pdf).

<sup>3</sup> Monroe CR. Why Are “Bad Boys” always Black?: Causes of Disproportionality in School Discipline and Recommendations for Change. *The Clearing House: A Journal of Educational Strategies, Issues and Ideas*. 2005;79(1):45-50. doi:10.3200/TCHS.79.1.45-50

<sup>4</sup> <https://goccp.maryland.gov/wp-content/uploads/juvenile-dmc-201101.pdf>

<sup>5</sup> Soler M. Health issues for adolescents in the justice system. *Journal of Adolescent Health*. 2002;31(6):321–333.

<sup>6</sup> Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, Dec. 10, 2020.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

**Testimony SB93 YES ACT.pdf**

Uploaded by: Camilla Day

Position: FAV

**Camilla Day  
6 Gerard Ct  
Rockville, MD 20850**

**TESTIMONY ON SB93 - FAVORABLE**

**Criminal Procedure – Youth Equity and Safty Act**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Camilla Day

**My name is Camilla Day, and I am testifying in favor of SB93 including with any sponsor amendments, as a resident of Montgomery County’s District 17 and a member of Adat Shalom Reconstructionist Congregation in Bethesda, MD.**

As a mother I am well aware that children, even teenage children, are not young adults but developing young people who need to be treated as such. Unfortunately, current Maryland law requires youth as young as 14 to be automatically prosecuted in adult court for 33 designated offenses.

Per capita, Maryland sends more children to adult court based on offense type than any other state except Alabama. Moreover, 81% of youth charged in adult court in Maryland are Black.

In 2021, Maryland sent more kids to adult court than California, Pennsylvania and Arizona combined! This needs to change and SB93 will do that.

In addition, this bill will help keep our communities safer. Studies have shown and experts agree that youth charged in adult court are almost 34% MORE likely to be rearrested with more serious offenses as compared to youth whose cases were heard in juvenile court for the same charges.

**I respectfully urge this committee to return a favorable report for SB93.**

**SB93\_Carol Stern\_FAV.pdf**

Uploaded by: CAROL STERN

Position: FAV

**Carol Stern**  
**4550 North Park Avenue, Apt T106**  
**Chevy Chase, Maryland 20815**

**TESTIMONY ON SB93 - POSITION: FAVORABLE**  
**Youth Equity & Safety Act SB93 (The YES Act)**

**TO:** Chair Smith & Co-Chair Waldststeicher & Members of the Committee

**FROM:** Carol Stern

**My name is Carol Stern, and I am testifying in favor of SB93 Youth Equity & Safety Act (The YES Act), as a resident of Montgomery County's District 16 and a member of Adat Shalom Reconstructionist Congregation in Bethesda.**

The Jewish text that shapes my religious and moral conviction that juveniles must never be automatically charged as adults is the directive issued in Deuteronomy 16:20, "**Tzedek, tzedek tirdof - Justice, justice shall you pursue.**" The Jewish sages explain that the word tzedek is repeated not only for emphasis but to teach us that in our pursuit of justice, our means must be as just as our ends. When we are working to reform our criminal justice system, we must demand that it operates in accordance with these deeply held Jewish beliefs.

**Youth charged in adult court are less likely to receive rehabilitative services, which makes them more likely to reoffend than similarly situated youth charged in juvenile court. According to the U.S. Department of Justice –**"To best achieve reductions in recidivism, the overall number of juvenile offenders transferred to the criminal justice system should be minimized."

**Adult charging results in increased physical violence, sexual violence, and isolation.** Research shows that youth charged as adults are at increased risk of physical and sexual assault and isolation from their families, which may contribute to future criminality.

Adolescent brains are not adult brains. **Charging youth as adults ignores definitive research that adolescent brains are rapidly developing and have yet to reach full maturity.** Services and treatment in juvenile facilities are evidence-based and preventative. According to the U.S. Dept. of Justice, "intensive juvenile placements are relatively more beneficial than either adult prison or mild juvenile sanctions."

As a mother of two children and a grandmother of three, I cannot imagine allowing my children or grandchildren to automatically be charged as adults.. This is not the kind of justice that our State of Maryland should allow for anyone. **THE YES ACT PROMOTES RACIAL JUSTICE.** 81% of youth charged in adult court in Maryland are Black. Black youth are more likely to be sent to adult prison and receive longer sentences than their white counterparts for similar offenses. Passing The YES ACT will add much needed reform for treating minors in the justice system with equality and the respect that all people deserve.

**I respectfully urge a favorable report on SB93.**



**SB0093\_CaseyWade\_FAV.pdf**

Uploaded by: Casey Wade

Position: FAV

2/16/2023

Casey Wade  
Silver Spring, MD, 20904

**TESTIMONY ON SB0093 - POSITION: Favorable**  
**Juvenile Court - Jurisdiction**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judiciary Proceedings Committee

**FROM:** Casey Wade

**OPENING: My name is Casey Wade. I am a resident of District 14. I am submitting this testimony in support of SB0093 - Juvenile Court - Jurisdiction.**

My background is in education and I specifically work in helping schools become eligible to receive Title IV funding which helps students all across the country fund their education. Additionally, I am a Jewish woman who is passionate about social justice and feel called to participate in the Jewish concept of tikkun olam or repair of the world. This passion for social justice led me to work with at-risk youth from a wide range of backgrounds and circumstances through the Upward Bound program. My time with these students was a life-changing experience and opened my eyes to the hardships that many teens face.

During my time with Upward Bound, I worked closely with students who were considered “at-risk.” I quickly learned this term meant many things. At risk of abuse, homelessness, violence, self-harm, drugs, bullying, and failing to graduate to name just a few. The backgrounds of some of the youth I worked with were heartbreaking and more than any child should have to bear. While I worked with the program, I was assigned to help come up with age-appropriate discipline when students broke the rules of the program. Something I learned quickly was that youth who are experiencing trauma in their lives often act out in a myriad of ways. Meeting this behavior with harsh punishment often did not yield an end to the behavior. However, meeting these teens with compassion, empathy, and techniques that were age appropriate more often than not yielded success in ending inappropriate behavior.

Harsh discipline makes little sense for teenagers whose brains are still developing. We as a society have a responsibility to protect our youth. Allowing the practice of “auto-charge” to continue forward fails to look at the unique experience of our youth and punish broadly without discretion or age appropriate methods. This practice is the most harmful to black and brown communities in Maryland. Charging children as adults sets them up for failure by giving them a record that impedes their ability to integrate back into society all before they are even

legally an adult. When children are charged as adults, they lose access to the many services that are available to youth when charged as minors.

By eliminating auto-charge, we allow discretion to be used when charging youths. We give adolescents the chance to be rehabilitated and to not have a record that will impede their opportunities for education and gainful employment. By ending auto-charge, we end a practice that hurts our minority communities. For these reasons, I fully support SB0093. **I respectfully urge this committee to return a favorable report on SB0093.**

**SB0093\_CharlesKoplik\_FAV.pdf**

Uploaded by: Charles Koplik

Position: FAV

Date of Hearing: February 16, 2023

Charles M. Koplik  
Odenton, MD 21113

**TESTIMONY ON SB0093 - POSITION: FAVORABLE**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Charles M. Koplik

**My name is Charles M. Koplik. I am a resident of District 21. I am submitting this testimony in support of SB0093, Youth Equity & Safety Act.**

I am a member of the Jewish Community Relations Council (JCRC) and chair its Anti-Racism Team. In addition, I serve as Executive Vice President of the Jewish Federation of Howard County. In my life, I am guided by the Jewish concept of *tzelem elohim*, which teaches that all people are created in the Divine image, with inherent and equal dignity and value. All people should be treated with dignity, respect, and fairness.

However, Maryland's practice of charging children as adults doesn't reflect this concept - in fact its application reflects deep racial inequity - 81% of the youth charged in adult court in our state are Black. Current law requires youth as young as 14 to be automatically prosecuted in adult court for 33 different offenses. In 2021, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined!

Charging kids as adults leads to significantly higher recidivism. Ending this practice would reduce not only violent crime, but also the criminalization and incarceration of Black youth, who are disproportionately targeted by our justice system.

We can and must treat our youth better. Maryland should join the 26 other states who have ended the racist practice of automatically charging youth as adults.

**I respectfully urge this committee to return a favorable report on SB0093.**

**SB0093\_JCRC\_FAV.pdf**

Uploaded by: Chuck Koplik

Position: FAV



Date of Hearing: February 16, 2023

Betsy Singer, Columbia, MD 21044, 443-812-2525

Laura Salganik, Columbia, MD 21044, 301-221-5143

**TESTIMONY ON SB0093 - POSITION: FAVORABLE**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Jewish Community Relations Council of the Jewish Federation of Howard County, Betsy Singer and Laura Salganik, Co-chairs

**The JCRC is submitting this testimony in support of SB0093, Youth Equity & Safety Act.**

Our JCRC is guided by the Jewish concept of *tzelem elohim*, which teaches that all people are created in the Divine image, with inherent and equal dignity and value. All people should be treated with dignity, respect, and fairness.

However, Maryland's practice of charging children as adults doesn't reflect this concept - in fact its application reflects deep racial inequity - 81% of the youth charged in adult court in our state are Black. Current law requires youth as young as 14 to be automatically prosecuted in adult court for 33 different offenses. In 2021, Maryland sent more kids to adult court than California, Pennsylvania, Massachusetts, and Arizona combined!

Charging kids as adults leads to significantly higher recidivism. Ending this practice would reduce not only violent crime, but also the criminalization and incarceration of Black youth, who are disproportionately targeted by our justice system.

We can and must treat our youth better. Maryland should join the 26 other states who have ended the racist practice of automatically charging youth as adults.

**We respectfully urge this committee to return a favorable report on SB0093.**

**SB93\_ClaireLanders\_FAV.pdf**

Uploaded by: Claire Landers

Position: FAV



**Hearing: February 16, 2023**  
**Claire Landers**  
**Baltimore, MD, 21209**

**SB93\_ClaireLanders\_FAV**  
**Juvenile Court- Jurisdiction (Youth Equity & Safety Act)-**  
**Ending Automatic Charging of Youth as Adults**

**TO:** Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee  
**FROM:** Claire Landers, Baltimore County resident

I am a resident of Baltimore County, District 11, and a parent urging you to support SB93. Last year I viewed a video of a very young Black child being held alone in an adult detention facility in Baltimore County, supposedly because space in a more appropriate setting was unavailable. This boy was distraught, crying and begging his attorney to take him home. It was disturbing and heartrending to watch a recording of a child's helpless anguish in that facility. Aware that an incident like this happened a mere 10 minute's drive from my own child's home compels me to plead with this committee to support SB93 to end the practice of automatically charging children and teenagers as adults for certain offenses in Maryland.

No matter the offense attributed to a minor in custody, any and every young person should be afforded of rigorous professional assessment(s) and impartial judicial hearing(s) before facing the full, enormous weight of prosecution as an adult for those offenses.

I'm certain you will hear and read other more expert testimony that will provide evidence and data for the many ways autocharging a) disproportionately harms Black children and teens and impacts them forward into their adult lives, b) how autocharging young people super-charges recidivism - thus, negatively impacting society in the longterm as well, and c) that autocharging places Maryland squarely in the company of other states more notoriously recognized for their own historically racist practices around prosecution and incarceration of Black people in America. That expert testimony should be enough to persuade you on the merits of SB93.

But writing as a mother in Maryland, I want to put forth another consideration beyond data and politics: Autocharging children and teenagers is a draconian, dickensian practice that does not befit the best values we aspire to in Maryland in 2023. With genuine joy and pride, General Assembly leaders commissioned and installed the portrait of Justice Thurgood Marshall in the halls where our governance unfolds. Likewise, the plaza fronting America's oldest state capitol building is graced by a sculpture of Black children seated in the towering shadow of Justice Marshall. Maryland proudly asserts that Justice Marshall is "one of our own"; so it is incumbent upon our State Legislature to demonstrate that Marshall's legal legacy of protecting vulnerable Black children still animates how our justice system will treat all children in Maryland going forward.

**HRFK SB 93 2023 SUPPORT.pdf**

Uploaded by: Emily Virgin

Position: FAV



# HUMAN RIGHTS *for* KIDS

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## TESTIMONY IN SUPPORT OF SB 93 BEFORE THE MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE

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*February 16, 2023*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 93. We are grateful to Senator Carter for her leadership in introducing this bill and appreciate the Maryland Legislature’s willingness to address these important human rights issues concerning Maryland’s children.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform. Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

Human Rights for Kids supports SB 93 because it will end the process of automatically sending children to adult court in Maryland. The continuing practice of disregarding child status and automatically sending children to adult criminal court is a clear human rights abuse. Specifically, Article 10 and 14 of the International Covenant on Civil and Political Rights require that “juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status . . . the procedure shall be such as will take account of their age and the

desirability of promoting their rehabilitation.” As such, automatically treating children as adults, regardless of the underlying charge, is a human rights abuse.

### **Adverse Childhood Experiences**

In the vast majority of cases, children who come into conflict with the law are contending with early childhood trauma and unmitigated adverse childhood experiences (ACEs), including psychological, physical, or sexual abuse; witnessing domestic violence; living with family members who are substance abusers, suffer from mental illness or are suicidal, or are formerly incarcerated. Studies have shown that approximately 90% of children in the juvenile justice system have experienced at least 2 ACEs, and 27% of boys and 45% of girls have experienced at least 5 ACEs.

Childhood trauma is the primary driver and root cause for how and why so many kids end up in the criminal legal system. Policies that permit children to be automatically charged as adults ignore this truism and divest juvenile court judges – who are trained in child development – from making a decision of what is in the best interest of the child and society.

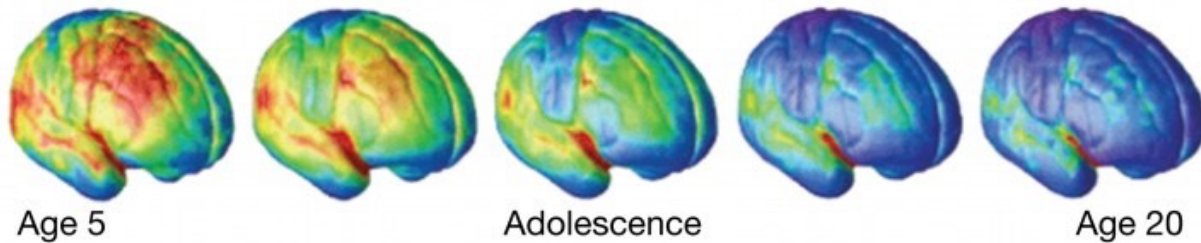
Because most of the children accused of crimes have been victims themselves, automatic adult charging policies ignore and disregard both the victim and child status of these offenders. That is not to say that in appropriate cases public safety considerations may require the court to waive juvenile court jurisdiction, but that that decision rightfully should rest with juvenile court judges. These judges are in the best position to weigh a child’s trauma history with their potential for rehabilitation if kept within the juvenile system.

### **Juvenile Brain & Behavioral Development Science**

Studies have shown that children’s brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and being heavily influenced by their surrounding environment.

Children’s underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities.

## Dynamic mapping of human cortical development



Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

*In this picture the blue areas can be thought of as representing 'more mature' sections of brain. The frontal areas are among the last to mature.*

It is for these reasons that children should also not be automatically subject to criminal court jurisdiction. In every aspect of our society, we require individuals who work with or make decisions about our children to be specially trained in child development, i.e. teachers, day care workers, pediatricians, nurses, etc. However, Maryland's policy of automatically charging so many children as adults and vesting judges in criminal court with ultimate decision-making authority over them is counter to how we treat children in every other aspect of our society. Like pediatricians and teachers in health care and learning settings, we should bestow decision making authority over our children in the legal system with juvenile court judges who have been trained specifically on child development.

### **Human Rights Violations**

Because of the way children are treated in the criminal justice system, we designated Maryland one of the "Worst Human Rights Offenders" in the nation in our 2020 National State Ratings Report. Maryland was penalized in our assessment, in part, for its automatic charging policy that has resulted in the state being second in the nation, only to Alabama, in the number of youth charged in adult court every year. It should be noted that more than 80% of youth charged as adults in Maryland are Black. Such practices are contrary to human rights law and have made Maryland a national outlier.

While it is important to note that the vital reforms to the juvenile justice system passed since the aforementioned 2020 report resulted in Maryland's recognition as the "most improved state" in the 2022 edition of our National State Ratings Report, Maryland is still penalized for its automatic charging policy.

In late 2022, Human Rights for Kids requested and received data from the State of Maryland on people who are currently incarcerated for crimes they were convicted of as children. According to our analysis of the data provided by the State, there are 1,132 currently incarcerated people who fit this description. This number represents 6.09% of Maryland's overall prison population, which is more than double the national average of 3%. Maryland ranks 5<sup>th</sup> highest in the nation

for the percentage of its overall prison population that has been incarcerated since they were children. Only Michigan, Louisiana, Wisconsin, and South Carolina have higher percentages.

When considering the current law on automatic charging, Maryland's status as one of the top incarcerators of children in the entire country should not be surprising. The state's high rates of incarcerating children are a direct result of the longstanding policy of automatically charging high numbers of children as adults.

### **Redemption for Maryland**

Nelson Mandela once said, "*There is no keener revelation of a society's soul than the way in which it treats its children.*" What does it say about our soul then if we allow so many children, the vast majority of whom are Black, to be automatically charged as adults?

By beginning so many children in adult court and thereby becoming a mass incarcerator of children, Maryland is disregarding international human rights norms, juvenile brain and behavioral development science, and the fact that so many of these children are themselves victims of crime.

With the passage of SB 93, Maryland can find redemption by recognizing that kids are different and should be treated differently in the legal system. We have juvenile courts and juvenile court judges for a reason – to determine how children should be treated when they come into conflict with the law.

**It is for the foregoing reasons that Human Rights for Kids respectfully requests that the Committee issue a favorable report on SB 93 by Senator Carter.**

Thank you for your time and consideration.

Submitted by: Emily Virgin, Director of Advocacy & Government Relations, Human Rights for Kids, [evirgin@humanrightsforkids.org](mailto:evirgin@humanrightsforkids.org)

# **People Incarcerated as Children in Maryland.pdf**

Uploaded by: Emily Virgin

Position: FAV

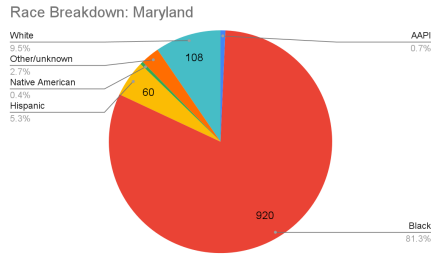
# People Incarcerated as Children in Maryland

Total Population: 1,132

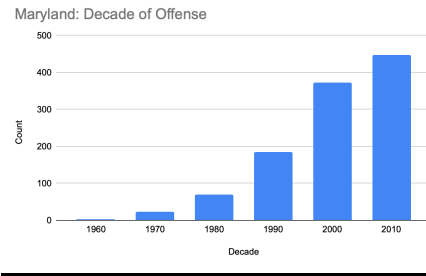
6.09% of prison population

## Race/Ethnicity Breakdown

90.46% People of Color

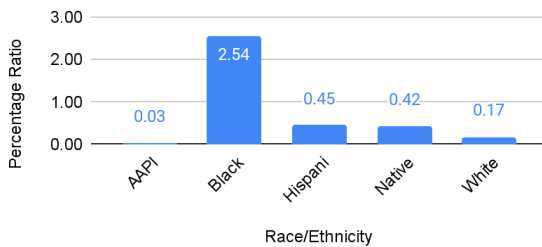


## Decade



## Maryland: Prison to State Population Ratio

Value of 1 means no disparity



## Sentencing

Life Sentences: 224 (19.79%)

De Facto Life Sentences: 214 (18.9%)

Average sentence length: 25.69 years  
(17.01 years without de facto life)

Race/Ethnicity	Avg Sentence	Shortest Sentence	Longest Sentence
All	25.69	2.36	236.00
AAPI	22.63	7.00	40.00
Black	25.44	2.36	124.54
Hispanic	24.81	3.00	55.00
Native American	75.99	10.00	236.00
Other/Unknown	28.91	13.00	50.00
White	25.20	3.00	90.01

## Age

Age at Offense	Count
13	2
14	22
15	96
16	369
17	643

## Cost

Yearly cost: \$50,488,332.00<sup>1</sup>

Cost of all inmates for sentence

duration: \$1,307,921,64

<sup>1</sup> \$44,601 annually per person X 1,132 people = \$50,488,332 per year.



# The Consequences of Maryland Violating Basic Human Rights Protections for Children in the Justice System

## 5th Highest Percentage of Overall Prison Population in the Nation

State	Population	Percentage of Prison Population	<a href="#">Entire state Prison Population</a> (as of 2019)
Michigan	3,775	9.92%	38,053.00
Louisiana	2,277	7.20%	31,609.00
Wisconsin	1,709	7.13%	23,956.00
South Carolina	1,139	6.12%	18,608.00
<b>Maryland</b>	<b>1,132</b>	<b>6.09%</b>	<b>18,595.00</b>
Missouri	1,091	4.19%	26,044.00
Mississippi	770	3.97%	19,417.00
Iowa	353	3.81%	9,260.00
North Carolina	1,179	3.46%	34,079.00
Texas	5,272	3.33%	158,429.00

*The number of people who have been incarcerated since childhood make up more than 6% of Maryland's entire prison population – one of the highest in the nation – and more than double the national average of 3%.*

#### 4th Highest Percentage of People of Color in the Nation

State	Percentage of People of Color
California	93.94%
Rhode Island	93.75%
Illinois	91.13%
<b>Maryland</b>	<b>90.46%</b>
New York	89.19%
Alabama	87.87%
New Jersey	86.49%
Mississippi	86.36%
Pennsylvania	84.55%
Georgia	84.55%

*More than 90% of the children who were prosecuted as adults and who remain incarcerated in Maryland's prisons today are children of color.*

#### 6th Highest Percentage of People Incarcerated Since Childhood Per State Population in the Nation

State	Prison Population	State Population	Percentage
Louisiana	2,277	4,624,047	0.0492%
Michigan	3775	10,050,811	0.0376%
Wisconsin	1709	5,895,908	0.0290%
Mississippi	770	2,949,965	0.0261%
South Carolina	1,139	5,190,705	0.0219%
<b>Maryland</b>	<b>1,132</b>	<b>6,165,129</b>	<b>0.0184%</b>
Texas	5,272	29,527,941	0.0179%
Missouri	1,091	6,168,187	0.0177%
Arkansas	532	3,025,891	0.0176%
Arizona	933	7,276,316	0.0128%

### 5th Highest Number of De Facto Life Sentences

State	Total Number of De Facto Life Sentences
Texas	785
Pennsylvania	245
Louisiana	230
Georgia	218
<b>Maryland</b>	<b>214</b>
Michigan	198
Colorado	98
Indiana	93
Florida	89
South Carolina	85

### 13th Highest Average Sentence Length

State	Average Sentence Length
West Virginia	22.5
Ohio	21.66
Illinois	21.6
Maine	21
Alabama	20.9
Georgia	20.07
Hawaii	20.00
Pennsylvania	19.83
Rhode Island	18.69
Indiana	17.94
California	17.8
Arkansas	17.23
<b>Maryland</b>	<b>17.01</b>

# **SB93 - Juvenile Court - ACLU Testimony - Feb 16, 2**

Uploaded by: Frank Patinella

Position: FAV



**Testimony for the Senate Judicial Proceedings Committee  
SB 93 - Juvenile Court – Jurisdiction**

**February 16, 2023**

**FRANK PATINELLA  
SENIOR EDUCATION  
ADVOCATE**

**AMERICAN CIVIL  
LIBERTIES UNION  
OF MARYLAND**

**3600 CLIPPER MILL  
ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
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**WWW.ACLU-MD.ORG**

**OFFICERS AND  
DIRECTORS  
HOMAYRA ZIAD  
PRESIDENT**

**DANA VICKERS  
SHELLEY  
EXECUTIVE DIRECTOR**

**ANDREW FREEMAN  
GENERAL COUNSEL**

**FAVORABLE**

The ACLU of Maryland supports SB 93, which would repeal provisions specifying that the juvenile court does not have jurisdiction over a child alleged to have committed certain acts. SB 93 is a positive step for Maryland to end the unfair treatment of children and recognize that they should not be treated as adults in the legal system.

Maryland law requires children as young as 14 to be automatically prosecuted in adult court for 33 offenses. Maryland sends more young people to adult court based on offense type, per capita, than any other state except for Alabama<sup>1</sup>. Between 2017-19, more than 87% of Maryland cases where a child was charged in adult court did not result in an adult criminal conviction. Of 314 assault cases where a youth was charged in adult court, 95% of cases did not result in an adult criminal conviction<sup>2</sup>.

Trying children as adults creates damaging and lasting collateral consequences as a result of being adjudicated in adult court instead of the juvenile court system. Children charged and sentenced as adults are marred with the stigma of an adult criminal record, which may exclude them from educational opportunities, some forms of financial aid, as well as future job prospects. Educational and employment opportunities are crucial for young people hoping to continue their lives after entanglement with the criminal justice system. SB 93 would ensure that children who have been charged will receive services including mental health treatment and education while in juvenile court.

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<sup>1</sup> Juvenile Justice Reform Council. (2019). *Supplemental Report*. The Juvenile Justice Reform Council. State of Maryland. Department of Legislative Services, Office of Policy Analysis. [https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Report-Final\\_2021SupplementalReport.pdf](https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Report-Final_2021SupplementalReport.pdf)

<sup>2</sup> *Id.*

Automatic transfer to adult court also disproportionately effects Black children. Black children make up 62% of the children prosecuted in the adult criminal system; they are also nine times more likely than White children to receive an adult prison sentence<sup>3</sup>. In Maryland, 80% of children charged in adult court in Maryland are Black<sup>4</sup>.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 93.

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

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<sup>3</sup> Campaign for Youth Justice, Critical Condition: African American Youth in the Justice System. [http://www.campaignforyouthjustice.org/images/policybriefs/race/criticalcondition/CFYJPB\\_CriticalCondition.pdf](http://www.campaignforyouthjustice.org/images/policybriefs/race/criticalcondition/CFYJPB_CriticalCondition.pdf)

<sup>4</sup> Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, Dec. 10, 2020. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

**MD Catholic Conference\_SB 93\_FAV.pdf**

Uploaded by: Garrett O'Day

Position: FAV



MARYLAND  
CATHOLIC  
CONFERENCE

February 16, 2023

**SB 93**

**Juvenile Court - Jurisdiction (Youth Equity & Safety Act)**

**Senate Judicial Proceedings Committee**

**Position: FAVORABLE**

The Maryland Catholic Conference offers this testimony in support of Senate Bill 93. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

Senate Bill 93 would end the *automatic* charging of youth as adults. This legislation would allow for all youth to begin their case in the juvenile court system, rather than mandating that the adjudication of their case begin in the adult court system. This bill would refocus our juvenile system from a “move-down” system to a “move-up” system, wherein judges would retain discretion to waive cases up to the adult court system. This bill does not prevent a youth from being charged as an adult. It is about where their case *starts*.

It is well-settled, in many secular, judicial and faith-based circles, that holding youth to the same standards of accountability as a fully formed adult is plainly unjust. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically noted that youthful offenders possessed “diminished capacity” and the inability to fully appreciate the risks and consequences of their actions, in considering whether youth should be treated the same as adults jurisprudentially. Additionally, the United States Conference of Catholic Bishops has further stated that “society must never respond to children who have committed crimes 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 inherent truths regarding youth should be carefully considered when assessing Maryland's current automatic-charging law, which presumes that youth should be considered to have the same capacity as an adult in every one of thirty-three different charging scenarios. This presumption can often leave a lasting effect severely limiting a child's ceiling for success for rest of their lives. Conversely, the transition to a “waiver up” system sought in Senate Bill 93 would safeguard youth from a lifetime of wasted opportunity, while still allowing judicial discretion to move kids up where a judge decides that doing so is warranted. As evidenced by the 80% of kids charged as adult never ultimately ending with an adult disposition of their case, we know that those instances are much less common. Those 80% should not start in adult court, wherein it has a much more detrimental effect on their lives, as well as future public safety. For these reasons, we urge a favorable report on SB 93.



# **BYA Senate Bill 93 - Support.pdf**

Uploaded by: Gianna Rodriguez

Position: FAV



**Senate Bill 93**

**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)  
Ending Automatic Charging of Youth as Adults  
February 16, 2023  
Support**

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

**Baltimore Youth Arts** is a creative job training program that provides artistic and professional opportunities to young people ages 14-25, with a focus on those involved in the justice system.

**Baltimore Youth Arts** is submitting this testimony in support of SB93, the Youth Equity and Safety Act, which would make our communities safer and make our youth justice system more equitable by ensuring that all juveniles begin their cases in the juvenile court system.

In Maryland, if a child as young as 14 is charged with one of 33 offenses, they can be tried in adult court. 87% of these charges, which are determined by police officers, do not result in criminal convictions. Many of the 87% of children charged as adults lost access to necessary services, their communities, families, schools, and other potential supports. Maryland is out of step with other states and international human rights law. No other country in the world routinely sends children to adult jails and prisons.

The United States juvenile court system was developed because children were understood to be different than adults. Children charged in adult court are less likely to have access to the intensive services that benefit a young person's development and have been demonstrated to reduce their engagement in future crimes. Research has shown that trying youth in the adult system has failed as a deterrent and that sentencing children in adult court results in higher recidivism rates than among youth charged with similar offenses in juvenile court.

Trying children in adult court undermines the purpose of the juvenile court system, relies on punishment rather than rehabilitation, and conflicts with what we know from developmental science. Children's brains are vastly different from adults. An adolescent brain is still developing and is highly influenced by immediate reward and peer pressure.<sup>1</sup> A just legal system would consider adolescent brain development and the potential negative impact of adult court on children when evaluating their actions. We must treat our children as children and work to support them through adolescence.

**I respectfully urge this committee to return a favorable report on SB93.**

*Gianna Rodriguez*  
Gianna Rodriguez

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<sup>1</sup> Juvenile Justice and the Adolescent Brain <https://clbb.mgh.harvard.edu/juvenilejustice/>

# **Yes Act Testimony.pdf**

Uploaded by: Gordon Pack, Jr.

Position: FAV

February 14, 2023

Re: Testimony in Support of SB 0093  
Youth Equity and Safety Act

Dear Members of the Judiciary Committee:

I am a registered voter who resides in District #41. I am a returning citizen and parole advocate working for a non-profit providing parole and reentry services. After being adjudicated in the criminal justice system at the age of fifteen, I served over four consecutive decades in prison. So, I know firsthand the intricacies of adjudicating children as adults based solely on the nature of their offenses.

The existing law allows for children over the age of thirteen to be charged as adults based solely on the allegation of having committed a violent offense. On one hand the legislature acknowledges the immaturity of children by prohibiting them from registering to vote, enlist in the military, enter binding contracts without parental consent, purchasing tobacco, alcohol, or firearms, and driving a motor vehicle. Yet, the alleged commission of a specified crime somehow gives these children the wherewithal to responsibly engage in the adult criminal justice system.

Developments in psychology and brain science indicate that children under the age of eighteen are not as mentally or emotionally developed as adults. As sensation-seeking is high and self-regulation is low in adolescents, they are vulnerable to risky behavior, increased susceptibility to outside influences, and poor decision making. The judiciary branch even acknowledges the difficulty of expert psychologists to differentiate between juvenile offenders whose crimes reflect transient immaturity and the rare juvenile whose crime reflects irreparable corruption. Furthermore, this legislature enacted the Juvenile Restoration Act in 2021 which recognized that juvenile offenders are less culpable, more amenable to change, and deserving of second chances.

I am a rare example of a child who served adult time. Kids like me do not fare well in the criminal justice system. Several of my friends, who only smoked weed, huffed glue, and drank beer, would later overdose and die from cocaine, heroin, fentanyl. Some were forced into gang life and became full-fledged members. A number have caught jailhouse charges increasing their stay. I know one who was murdered as he slept, two who committed suicide, several who were subjected to sexual degradation, and many who have becoming habitual offenders.

How can the police, state's attorneys, and courts be authorized to charge and adjudicate our children as adults without any adolescent clinical background. This has resulted in great disparity among children of color. The criminal justice system does not afford the designed to! So, adjudicating weak, impressionable, misguided children as adults condemns them to a hapless fate.

I question whether this practice which has not deterred crime is a necessary injustice. In my humble opinion, it is less difficult to teach children how to become good, productive adults than to try to repair broken adults. Therefore, I support the Youth Equity and Safety Act and urge this honorable committee to vote favorably for Senate Bill 93.

Truly yours,

Gordon R. Pack, Jr.  
[gordon@prepare-parole.org](mailto:gordon@prepare-parole.org)  
[gordonrpack@gmail.com](mailto:gordonrpack@gmail.com)  
Cell# 410-456-7034

# **SB93.pdf**

Uploaded by: Hamza Ewing

Position: FAV



February 16, 2023

Honorable Senator William C. Smith  
Chair, Judicial Proceedings Committee  
Miller Senate Office Building  
Annapolis, Maryland 21401

Re: Testimony in **SUPPORT of SB93 Youth Equity & Safety Act**

Hello Chair Smith and members of the Senate Judicial Proceedings Committee:

On behalf of the Council on American-Islamic Relations, I thank you for this opportunity to testify in support of Senate Bill 93 introduced by Senator Jill Carter. CAIR is America's largest Muslim civil rights and advocacy organization. I am CAIR's government affairs intern in Maryland.

The Youth Equity and Safety Act seeks to amend the juvenile court's jurisdiction by repealing provisions stating that the juvenile court does not have jurisdiction over a child alleged to have committed certain acts.<sup>1</sup>

The YES Act changes the way teens charged with serious felonies enter the justice system. Rather than trying teens as adults for certain crimes, the YES Act establishes that all youth under the age of 18 begin their cases in juvenile court. In doing so we are able to decrease the number of offenders that repeat the crimes which land them in jail.

According to the U.S. Department of Justice: "To best achieve reductions in recidivism, the overall number of juvenile offenders transferred to the criminal justice system should be minimized."<sup>2</sup>

On a personal note, as a Black student who attends high school in a predominantly White county, I constantly witness people of color receive harsher punishments for misdemeanors. Moreover, Black students are 3.5 times more likely to be suspended than their white counterparts.<sup>3</sup> But these occurrences don't only just happen within school systems. Over 80% of youth charged in adult court in Maryland are Black, and they are more likely to be sent to adult prison and receive longer sentences than their White counterparts for similar offenses.<sup>4</sup>

Our justice system is presumably built on the core values of honesty, integrity, and equal justice under law, but how can we stand for these principles when so many Black teens are being judged harsher just because of the color of their skin. It goes beyond that. When you send a juvenile to adult prison, you give them a label, a label that their growth, their development ends at that point in time, and that they are less likely to be capable of redeeming themselves and integrating back into society. And teenagers with undeveloped

brains will be more likely to internalize these labels and hold onto them for the rest of their lives because they were never given a chance to rehabilitate.

It's important to mention that the YES Act does not prevent prosecutors from seeking to move a teenager's case to adult court as they can still attempt to move cases from juvenile to adult court at a judge's discretion. What it does do is give youth an opportunity, a chance to right their wrongdoings. We are the future of this nation, and we as a nation cannot proceed with its brightest minds behind bars.

Passing SB93 is a meaningful component of effective systemic reform that would help not only save young people's lives but also give them a better chance for a better future. Therefore, we support this bill and respectfully urge your favorable vote. Thank you for your consideration.

Sincerely,

Flematu Fofana  
Intern, CAIR Office in Maryland  
Council on American-Islamic Relations  
Email: [mdintern@cair.com](mailto:mdintern@cair.com)

1. [YES Act Fact Sheet - MYJC.docx](#)
2. <https://www.justice.gov/usao-wdtn/core-values>
3. <https://law.vanderbilt.edu/news/should-juveniles-be-tried-as-adults/>
4. <https://www.insidehighered.com/admissions/article/2020/10/05/common-app-stop-asking-students-about-their-high-school-disciplinary#:~:text=Removing%20the%20discipline%20question%20is,Rickard%2C%20CEO%20of%20Common%20App.>



**SB0093\_HeidiRhodes\_FAV.pdf**

Uploaded by: Heidi Rhodes

Position: FAV

Date of Hearing: Feb. 16, 2023

Heidi Rhodes  
Silver Spring, MD, 20904

**TESTIMONY ON SB0093 - POSITION: FAVORABLE Youth Equity and Safety Act**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Heidi Rhodes

**OPENING: My name is Heidi Rhodes. I am a resident of District 14. I am submitting this testimony in support of SB0093, the Youth Equity and Safety Act which would make our communities safer and make our youth justice system more equitable by ensuring that all juveniles begin their cases in the juvenile court system.**

I am a retired federal employee who organizes for social justice with the Oseh Shalom synagogue. As a Jew I often express my relationship to the infinite through *l'dor vador* which translates as "from one generation to the next." This means that we must act as the infinite would, in a fair and balanced way in relation to all of our children, and have a relationship with our children that is based on age-appropriate justice and the principles of treating them as innocent until proven guilty or juveniles until proven that their alleged crimes are such that they should be treated as adults. Having raised a child to adulthood, I know that their brains are not fully adult with all the ability to project the consequences of their actions before taking those actions.

Maryland sends more young people to adult court based on offense type, per capita, than any other state except for Alabama. We can and must treat our youth better. Maryland should join the 26 other states who have passed laws to treat kids like kids and limit the pathways into adult courts. Seven states (California, Hawaii, Kansas, Kentucky, Tennessee and Texas) already start all cases involving their youth in their juvenile courts. When young people are automatically charged in adult court, they are more likely to reoffend, sooner, with more violent crime than children who are charged in juvenile court. This practice undermines the purpose of the juvenile court system, pursues punishment rather than rehabilitation, and conflicts with what we know from developmental science.

Furthermore, laws that allow youth to be tried in adult court reflect and reinforce the racial inequities that characterize the justice system in the United States. The Yes Act promotes

racial justice. 81% of youth charged in adult court in Maryland are Black. Black youth are more likely to be sent to adult prison and receive longer sentences than their white counterparts for similar offenses.

True safety in our society must come from treating everyone fairly and focusing on treatment and not punishment. This is especially true for our most vulnerable, our children. This bill will help achieve the goal of a safe and just society for all in Maryland.. **I respectfully urge this committee to return a favorable report on SB0093.**

# **SB93\_IoanaStoica\_FAV.pdf**

Uploaded by: Ioana Stoica

Position: FAV

2/16/2023  
Ioana Stoica  
Laurel, MD 20707  
[ioana.stoica@gmail.com](mailto:ioana.stoica@gmail.com)

**TESTIMONY ON SB93 - POSITION: FAVORABLE**  
**Juvenile Court – Jurisdiction**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Ioana Stoica

**My name is Ioana Stoica and I am a resident of District 21. I am submitting this testimony in support of SB93: Juvenile Court Jurisdiction.**

I write to you as a constituent, as an immigrant, and as a member of Oseh Shalom, a reconstructionist synagogue in Laurel, MD. My faith and my background both form the foundation for my beliefs that seeking justice is the most important task that we as individuals, and collectively as a society, must pursue. The Jewish concept of justice has been central to our religious traditions and arises from our historical experiences - in my immediate personal case, of being a refugee from a formerly communist country, not to mention being raised in such a place.

My upbringing has led me into professions of service; while I currently work in public policy advocacy, prior to this, I taught in public schools for almost two decades. I taught in a Title I high school for much of this period that served a population that was over 90% black. During this time, I sat in too many meetings in which I had to advocate for clearly kind, intelligent students who had made mistakes, to receive lesser punishments than those proposed by administration, such as expulsions. It is our responsibility as adults to guide and teach children, and automatically labeling them as “bad” and meting out consequences we would mete to adults does not serve this purpose.

The school to prison pipeline has been written about at length; as the ACLU has pointed out, when policies about the liberty of our youth are based on perceived risks to public safety, instead of on the well-being of the youth involved, everyone suffers the consequences. Kids are more likely to reoffend and to enter a cycle of criminalization and poverty; families are torn apart; black kids are targeted at much higher rates than others; and, critically, public safety does not improve.

In my decades of teaching, I have *never* worked with a student who was lashing out or who made mistakes because they were “bad” - rather, these were kids who were not being heard, or who had been neglected by a school and community that did not understand or care to address their needs. As an educator, I firmly believe that every child that we send off to adult court or whom we incarcerate is OUR failure: not theirs. It is OUR responsibility to teach and care for these children. And we can begin by ending the racist practice of automatically charging kids as adults. **I passionately urge this committee to return a favorable report on SB93.**

# **Dr James Fleming YES Act testimony.pdf**

Uploaded by: James Fleming

Position: FAV

James Fleming, Ph.D.  
Forensic and Clinical Psychology  
Licensed Psychologist | Maryland and Virginia

PO Box 72  
Garrett Park, MD 20896  
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Jfleming6767@gmail.com

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**Senate Bill 93**  
**Juvenile – Court Jurisdiction (Youth Equity & Safety Act)**  
**Ending Automatic Charging of Youths As Adults**  
**February 16, 2023**  
**Support**

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee,

My name is Dr. James Fleming. I am a resident of District 18. I am submitting this testimony in support of SB 93, the Youth Equity & Safety Act. I am a forensic psychologist who has practiced in that specialty in the State of Maryland for 27 years. I am an expert in the evaluation and treatment of adolescent offenders who have committed violent offenses and in the research on the effects of incarcerating juveniles as adults. In the course of my work, I have been frequently retained by the Office of the Public Defender (OPD) and private attorneys to testify regarding issues related to that expertise.

My testimony addresses four topics that pertain to issues raised by the Act:

- Differences in brain development between juvenile and adult offenders, and the consequences of those differences
- The effect on violent recidivism of incarcerating juveniles as adults
- The negative effects of adult incarceration on juveniles
- Whether more time incarcerated increases the accountability of juvenile offenders

**Differences in brain development between juvenile and adult offenders, and the consequences of those differences**

Juvenile offenders' brains are physiologically different than those of adult offenders. Beginning in the early 2000s, brain-imaging studies determined that the pre-frontal cortexes of juveniles are not fully developed. The pre-frontal cortex is the executive decision-making area of the brain that regulates our thoughts, actions and emotions. This finding explained the long-standing consensus among mental health professionals that adolescents are less able than adults to perceive and understand the long-term consequences of their acts, to think autonomously instead of bending to peer pressure or the influence of older friends and acquaintances, and to control their emotions and act rationally instead of impulsively. All of these tendencies affect an adolescent's ability to make reasoned decisions.

### **The effect on violent recidivism of incarcerating juveniles as adults**

In my professional opinion there is now a research consensus that, on average, incarcerating juveniles convicted of violent offenses as adults results in increased violent recidivism in comparison to adjudicating comparable offenders in juvenile systems. In June 2010, Richard E. Redding reviewed the extant research on the effects of incarcerating juveniles as adults in article for the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). He found six large-scale studies that had been conducted on the specific deterrent and recidivism effects of the transfer of juveniles to adult jurisdiction by comparing juveniles adjudicated as adults to juveniles who remained in the juvenile system. Notably, these studies overturned long-held beliefs that juveniles who were adjudicated as adults recidivated at greater rates than juveniles who remained in the juvenile system only because their adult incarceration reflected courts' well-considered responses to their ostensibly greater criminality, that is, that such offenders were "bad apples," who solely by the definition of the circumstances of their adjudication were more likely to re-offend. The studies achieved this by using various methodologies to ensure that the offenders in the two groups were comparable, especially on the key variables of severity of offense and severity of prior criminal history. All six studies found substantially higher recidivism rates for violent offending among offenders who had been transferred to adult courts. Redding concluded, "The strong consistency in results across the studies is all the more compelling given that they used different samples and methodologies, thereby providing a measure of convergent validity for the findings."

The foregoing findings were also cited by the UCLA School of Law's Juvenile Justice Project's July 2010 review of prosecuting youth in the adult criminal justice system, which concluded, "While transfer laws do not seem capable of seriously deterring crime, research indicates that they have a marked negative impact on recidivism." And, subsequently, reviewing these and other empirical findings, a national committee (the Committee on Assessing Juvenile Justice Reform, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, the National Academy of Sciences), and a national task force (the Attorney General's National Task Force on Children Exposed to Violence), both recommended minimizing the transfer of juveniles to adult jurisdictions.

### **The negative effects of adult incarceration on juveniles**

In my professional opinion, the increase in recidivism associated with the incarceration of juveniles as adults reflects the negative effects of such confinement. First, juvenile offenders incarcerated in adult prisons are more vulnerable to victimization because, on average, they are physically and mentally less developed than their adult contemporaries. In my opinion, the primary driver of criminal behavior is grievance. More frequently victimized, juvenile offenders housed with adults accordingly become more aggrieved, which is likely to fuel future negative behavior. Second, juveniles are more vulnerable to the negative influence of their adult antisocial contemporaries because, as noted above, they are more vulnerable to peer pressure or the influence of older friends and acquaintances. Accordingly, they can absorb adult offenders' antisocial attitudes and learn their criminal strategies. Third, by the definition of their developmental circumstances, juveniles require greater attachment to their families, for security and development. The greater separation involved in adult incarceration thwarts those needs

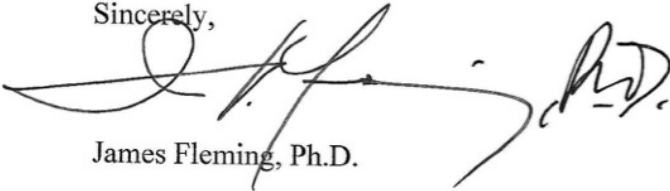


and, accordingly, appropriate development, which again leaves juveniles more vulnerable to engaging in negative behavior.

**Whether more time incarcerated increases the accountability of juvenile offenders**

For all of us, it is difficult to think clearly about crime, because crime is both a matter of public safety and a matter of morality. Accordingly, the belief that greater punishment will deter recidivism because it will subject offenders to greater accountability (a moral issue), while compelling, does not comport with the empirical evidence proffered above regarding the increased threat to public safety posed by incarcerating juveniles as adults. That is, it may feel wrong to subject juveniles to less punishment but doing so better protects the public.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Fleming, Ph.D.', written over a horizontal line.

James Fleming, Ph.D.

**2023.02.15 SB93 Office of the Public Defender Fav.**

Uploaded by: Jenny Egan

Position: FAV



**BILL:** Senate Bill 93  
**POSITION:** Favorable  
**DATE:** February 15, 2023

Last year, the Maryland General Assembly passed the Juvenile Justice Reform Act (JJRA), the most significant overhaul of the juvenile legal system in nearly 50 years when the Department of Juvenile Services (DJS) was created. While the changes brought by the JJRA were monumental and long overdue, it left a significant portion of children behind: children automatically charged as adults. The YES Act will complete the legislative recommendations made by the bipartisan Juvenile Justice Reform Council (JJRC), and end the harmful, discriminatory, and dangerous practice of automatically charging children as adults in Maryland.

### **The History of Automatically Charging Children as Adults & the National, Common-Sense Push to End It**

Between 1986 and 1994, Maryland and 48 other states expanded the automatic charging of children in adult court as a response to the race-based fear-mongering and false predictions of increased crime and the rise of “super-predator” youth.<sup>1</sup> As a result, children in Maryland can automatically be charged in adult court for 33 separate offenses, based on charges levied by police, without considering their youth, development, or vulnerability.

In 2018, the Maryland General Assembly convened a Juvenile Justice Reform Council (JJRC) and tasked it with using a data-driven approach to develop a statewide framework of policies to invest in strategies to increase public safety and reduce recidivism of youth offenders.<sup>2</sup> That body met for more than two years, heard from a myriad of local and national experts, studied the statutes and the data available. After conducting an exhaustive review, the JJRC overwhelmingly voted (13-3) to recommend an end to the automatic charging of children in adult court. SB93/HB96 is the result of those recommendations.

These changes would begin to bring Maryland in line with national and international norms. Currently Maryland sends more young people, per capita, to adult court based on offense type than any other state except for Alabama.<sup>3</sup> Only nine states send more than 200 youth per year to adult court, Maryland routinely sends four times that amount.

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<sup>1</sup> 1986 Md. Laws, Ch. 790, excluding from the original jurisdiction of the Juvenile Court a child charged with certain handgun offenses and 1994 Md. Laws, Ch. 641, excluding from Juvenile Court original jurisdiction 17 other offenses. Editorial: Echoes of the Superpredator, *New York Times*, April 14, 2014, [www.nytimes.com/2014/04/14/opinion/echoes-of-the-superpredator](http://www.nytimes.com/2014/04/14/opinion/echoes-of-the-superpredator); Brief for Jeffrey Fagan et. al (*The Criminologists Brief*) as Amicus Curia, *Miller v. Alabama* 567 U.S. 460 (2012) <https://eji.org/files/miller-amicus-jeffrey-fagan.pdf>.

<sup>2</sup> Maryland HB606: 2019: Regular Session

<sup>3</sup> The Sentencing Project, National Trends in Charging Children, *Presentation to the JJRC* (July 20, 2021). <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>



Because of the harms these laws have caused, in the last decade half of the states across the country have passed reforms narrowing or eliminating automatic pathways that were created during the “super predator” era through which children are transferred to the adult court, granting increased judicial review and discretion in the transfer decisions.<sup>4</sup> As of 2021, there are 8 states have changed their laws to require all their juvenile populations cases to originate in juvenile court for all charges, with the juvenile court judge retaining full discretion over whether the youth is waived to adult court. This includes California, Hawaii, Kansas, Kentucky, Missouri, Oregon, Tennessee, and Texas<sup>5</sup>.

In California, it’s been more than 7 years since the voter initiative known as Prop 57 eliminated all forms of automatic charging of children in adult court and began to require full judicial review prior to charging a child in adult court. Two years later, the state raised the floor for judicial transfer to age 16; as a result, transfers have dropped from several hundred a year to under 50.<sup>6</sup> California has an estimated population of 39.5 million or 6 times larger than Maryland.<sup>7</sup>

In Illinois, bi-partisan legislation in 2015 shifted their process from an “automatic” adult court case based solely on age and charge, to a due process hearing with an individualized review of the probable cause for the charged offense and of the strengths and needs and risks of the child charged with the offense. After Illinois’s reform, which narrowed transfer eligibility to children age 15 and older while also shrinking the number of offenses for which a child had to be charged as an adult, was ruled retroactive, 186 cases of children in Cook County who had been automatically charged as adults were reviewed by prosecutors and the courts. Ultimately only 3 of those cases were transferred to adult court, while 6 others resulted in a suspended adult sentence.<sup>8</sup> Illinois and California reform implementation demonstrates how many inappropriate cases are swept into the adult system by automatic transfer laws.

Vermont also ended its direct file statute.<sup>9</sup> Prior to the law change, 16- and 17-year olds could be

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<sup>4</sup> Nebraska, North Dakota, Washington, Nevada, Colorado, Virginia, Connecticut, Rhode Island, and South Carolina have all recently narrowed automatic transfer provisions. Evans, Brian (2020). “Winning the Campaign: State Trends in Fighting the Treatment of Children as Adults in the Criminal Justice System,” The Campaign for Youth Justice: Washington, D.C. p. 8. Note: In 2021, Kentucky also ended mandatory waiver, bringing the number of states to 25. <http://cfyj.org/images/reportthumbnails/CFYJ%20Annual%20Report.pdf>.

<sup>5</sup> In Texas, the age of majority for criminal court is 17.

<sup>6</sup> Ridolfi, Laura, Washburn, Maureen, Guzman, Frankie, (2017). “Youth Prosecuted as Adults in California: Addressing Racial, Ethnic, and Geographic Disparities After the Repeal of Direct File.” Oakland & San Francisco, CA: W. Haywood Burns Institute, Center of Juvenile and Criminal Justice, National Center for Youth Law. [http://www.cjcj.org/uploads/cjcj/documents/youth\\_prosecuted\\_as\\_adults\\_in\\_california.pdf](http://www.cjcj.org/uploads/cjcj/documents/youth_prosecuted_as_adults_in_california.pdf) & Juvenile Justice in California (2020). Criminal Justice Statistics Center, Sacramento, CA.

<sup>7</sup> <https://www.census.gov/quickfacts/CA>

<sup>8</sup> Kooy, Elizabeth, (2020). “When Juvenile Court is the Default Starting Place for Youth: A Review of Outcomes Following 2015 Automatic Transfer Changes in Cook County.” Evanston, IL: Juvenile Justice Initiative. <https://jjustice.org/wp-content/uploads/Transfer-Report-2020.pdf>

<sup>9</sup> 2016 Legislative Session, H.95 (Act 153) passed and was signed into law. <https://legislature.vermont.gov/bill/status/2016/H.95>



directly charged into adult court for any charge at the discretion of the prosecutor. In 2018, Vermont became the first state to raise the age of criminal responsibility to 20 years. The following year, the state allowed most youth up to age 21 who had been statutorily excluded from juvenile court to instead be processed as a youthful offender (including youth up to age 21) in juvenile court.<sup>10</sup> In 2019, there were a total of 6 youth (all 18 or 19) prosecuted under the youthful offender statute in Vermont.<sup>11</sup> However, youth up to age 21 who are charged with any of 12 serious offenses remain statutorily excluded from juvenile court in Vermont. More recently, Florida<sup>12</sup> and Oregon<sup>13</sup> both ended statutory exclusion in their states; while Kentucky<sup>14</sup> and Rhode Island<sup>15</sup> ended mandatory waivers in juvenile court.

In 2020, both Utah<sup>16</sup> and Virginia<sup>17</sup> greatly restricted their direct file statutes, joining Washington State<sup>18</sup> (2018) returning most children charged as adults back to juvenile court. Though we hear near constant reports about the “rise in juvenile crime,” the reality is that arrests for violent crime involving youth continue to decline.<sup>19</sup>

While the “super-predator” fiction has been thoroughly debunked, the system established in its wake is still in place in courtrooms across Maryland. The Free State can no longer use those myths, repackaged and regurgitated under the guise of labeling children “repeat violent offenders” to justify continuing the status quo. It is time for Maryland to allow a judge to decide how and when children will be tried in adult court.

### **Maryland’s Practice of Automatically Charging Children as Adults Causes Irreparable Harm to Youth of Color**

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<sup>10</sup> 2019 Legislative Session, S133 (Act 45) passed and was signed into law. <https://trackbill.com/bill/vermont-senate-bill-133-an-act-relating-to-juvenile-jurisdiction/1708195/>

<sup>11</sup> Schatz, K, Vastine, K, Chester, L, Sussman, M, et al, (2019). “Report on Act 201 Implementation Plan Report & Recommendations,” Report to the Vermont Legislature. Burlington, VT. <https://dcf.vermont.gov/sites/dcf/files/DCF/reports/Report-Act201.pdf>

<sup>12</sup> 2019 Legislative Session, HB 7125 passed and was signed into law. <https://trackbill.com/bill/florida-house-bill-7125-administration-of-justice/1740423/>

<sup>13</sup> 2019 Legislative Session, SB 1008 passed and was signed into law. <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB1008>

<sup>14</sup> 2021 Legislative Session, SB 36 passed and was signed into law. <https://apps.legislature.ky.gov/record/21RS/sb36.html>

<sup>15</sup> 2018 Legislative Session, H7503 passed and was signed into law. <http://webserver.rilin.state.ri.us/BillText/BillText18/HouseText18/H7503.pdf>

<sup>16</sup> 2020 Legislative Session, HB0384 passed and was signed into law. <https://le.utah.gov/~2020/bills/static/HB0384.html>

<sup>17</sup> 2020 Legislative Session, HB0384 passed and was signed into law. <https://le.utah.gov/~2020/bills/static/HB0384.html>

<sup>18</sup> 018 Legislative Session, SB 6550 passed and was signed into law. <https://app.leg.wa.gov/billsummary?BillNumber=6550&Year=2017&Initiative=false>

<sup>19</sup> OJJDP, Juvenile Justice Statistics, National Report Series Fact Sheet, “Trends in Youth Arrests for Violent Crimes,” <https://ojjdp.ojp.gov/publications/trends-in-youth-arrests.pdf>.



Most of the children we charge in adult court are Black or Brown. As a technical assistance provider for the JJRC, the Vera Institute of Justice examined data related to youth charged in adult court between 2017 and 2019. Vera found that in MDEC counties youth of color made up 79% of youth charged in adult court, but only 51% of youth transferred to juvenile court.<sup>20</sup> White youth made up only 21% of kids charged in adult court in MDEC counties, but 49% of youth who are transferred down. Black children made up 72% of kids charged in adult court in MDEC counties but only 39% of kids who are transferred down. Which means, white youth had their cases transferred down 94% of the time compared to only 26% for youth of color. Black youth had the lowest rates of transfer - at only 22%. Black youth ultimately tried in adult courts receive significantly more punitive sentences than White youth.<sup>21</sup>

According to the Department of Public Safety and Correctional Services (DPSCS), there are currently 1,132 in DPSCS custody for an offense committed when they were children. Of those, 90.4% are people of color and 81.3% are Black.<sup>22</sup>

Under the current law, Maryland is charging an inordinate amount of Black and Brown children in adult court. In FY20, Maryland sent more children to adult court than Arizona, Massachusetts, California, and Pennsylvania combined. Those states have nearly 10 times Maryland's population. This practice, and the damage done primarily to Black and brown young people, who are ultimately not convicted in adult court may be a major contributing factor to why Maryland imprisons a higher percentage of Black people (70%) than any other state in the nation.<sup>23</sup>

### **Maryland's Practice of Automatically Charging Children as Adults is Inefficient and Casts Too Wide of a Net Over Maryland's Children**

More than 95% of children automatically charged in adult court<sup>24</sup> are eligible for a transfer hearing.<sup>25</sup> A "transfer" involves moving a case from adult down to juvenile court, while a "waiver" involves moving a case from juvenile up to adult court. Under the current law the court must consider five statutory factors in any waiver<sup>26</sup> or transfer<sup>27</sup> decision: (1) the age of the child; (2) the child's physical and mental condition; (3) the child's amenability to treatment in any

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<sup>20</sup> *Id.* The Committee should note that this data only includes 21 Counties and Baltimore City. Due to lack of data collection, the analysis did not include Prince George's or Montgomery County – two of the largest jurisdictions in the state.

<sup>21</sup> Jordan KL, Freiburger TL (2010) Examining the impact of race and ethnicity on the sentencing of juveniles in adult court. *Criminal Justice Policy Review* 21: 185–201.

<sup>22</sup> Data provided by Human Rights for Kids, testimony submitted 2/15/2023 to this same committee.

<sup>23</sup> Justice Policy Institute, *Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland*, 2019. <https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-young-adults-in-maryland/>

<sup>24</sup> Maryland Courts and Judicial Proceedings Section 3-8A-03.

<sup>25</sup> Children over 16 charged with first degree murder are currently not transfer eligible. MD Crim. Pro Code § 4-202 (2013).

<sup>26</sup> Courts and Judicial Proceedings Article § 3-8A-06(e)

<sup>27</sup> Criminal Proceedings Article § 4-202(d)



institution, facility, or programs available to delinquents; (4) the nature of the offense(s); and (5) public safety. To assist in the consideration of these factors, the transfer statute provides for a court-ordered study, usually conducted by the Department of Juvenile Services (DJS.)<sup>28</sup>

When a child is automatically charged in adult court, the five factors are not considered until the transfer hearing. In FY22, detained youth charged in adult court waited an average of 114 days from the time they were charged until their transfer hearing.<sup>29</sup> Federal law has prohibited youth from being housed in adult jails until a judge determines they are eligible to be tried in adult court since December 2021.<sup>30</sup> Maryland is out of compliance with federal law and many children are housed in adult jails throughout the state. In the most recent DJS State Advisory Group meeting, the JJDPa monitor reported the state is aware of at least 691 violations of the core requirements of the JJDPa - like sight and sound separation from adult inmates and timely removal from adult jail facilities to youth detention in FY2022 alone.<sup>31</sup> Studies show that youth held in adult facilities are 36 times more likely to commit suicide and are at the greatest risk of sexual victimization.<sup>32</sup>

This bill will correct a backwards process. The current law requires large numbers of children to be charged in adult court, wait for long periods of time in detention, only to have their cases dismissed or transferred to the juvenile system.

Nearly 9 out of 10 of children (87%) initially charged as adults do not end up with an adult criminal conviction.<sup>33</sup> Nearly half (43%) have their cases transferred and another third (35%) are dismissed outright. Of 871 cases of children charged in Maryland adult court, only 110 of them resulted in adult criminal conviction.<sup>34</sup> Almost all the remaining 761 cases, however, went through the lengthy, expensive, and resource intensive transfer hearing process. In some of those cases, the prosecutor agreed to transfer, in others there was lengthy litigation before a Judge ultimately granted the transfer motion.

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<sup>28</sup> Criminal Proceedings Article § 4-202(e)

<sup>29</sup> Dept. of Juv. Services, Data Resource Guide FY2022, Youth Charged as Adults Pending Transfer, 135. [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf)

<sup>30</sup> Juvenile Justice and Delinquency Prevention Act Reauthorization 2018

<sup>31</sup> Bill Harper, Juvenile Justice Compliance Monitor and Anti-Human Trafficking Training Coordinator, Governor's Office of Crime Control and Prevention, oral report JJDPa Maryland Juvenile Grant Planning and Review Council, January 23, 2023. DJS Automatic Charging of Children Briefing, January 24, 2023. [https://mgaleg.maryland.gov/meeting\\_material/2023/jpr%20-%20133190439744448914%20-%20Briefing%20Materials.pdf](https://mgaleg.maryland.gov/meeting_material/2023/jpr%20-%20133190439744448914%20-%20Briefing%20Materials.pdf)

<sup>32</sup> Campaign for Youth Justice. Key Facts: Youth in the Justice System. June 2010, <http://www.campaignforyouthjustice.org/images/factsheets/KeyYouthCrimeFactsFeb222018Revised.pdf>

<sup>33</sup> Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>

<sup>34</sup> Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>





By ending automatic charging, this bill would allow prosecutors to choose the cases where they want to dedicate their resources, time, and effort to argue a waiver motion. With fewer first-time offenders and other youth appropriate for the rehabilitative practices of juvenile court being processed through the criminal court system, the State could very well focus their energies more effectively and end up convicting just as many or more children in adult court.

Maryland's current system of automatic charging encourages police and prosecutors to overcharge children. For example, of 314 cases where a child was charged with Assault in the 1st degree only 17 resulted in an adult criminal conviction.<sup>35</sup> Ninety-five (95%) of 1<sup>st</sup> degree assault cases where children are charged in adult court did not result in an adult criminal conviction, but hundreds of children had their treatment and care needlessly delayed and deferred. The current law allows the charging police officer to determine which children are subject to adult jurisdiction, thereby incentivizing overcharging to coerce a plea.

This bill will streamline a broken system. Ending automatic transfer limits the time young people who will ultimately have their cases adjudicated in juvenile court or dismissed spend in pre-trial detention and ensure that those young people deemed appropriate for rehabilitation start those services as quickly as possible.

### **Automatic Charging Is a Risk to Public Safety**

Supporters of the punitive reforms of the status quo argue automatic charging of children is necessary to protect the public, but we know definitively

“[charging teenagers in] the adult criminal justice system is associated with subsequent violence among juvenile participants when compared with violence among juveniles retained in the juvenile justice system...little evidence supports the idea that transfer laws deter juveniles in the general population from violent crime. These policies might be favored by policymakers or the public for other reasons (e.g., societal retribution in response to serious crime or incapacitation of serious offenders). However, the review indicates that use of transfer laws and strengthened transfer policies is counterproductive to reducing juvenile violence and enhancing public safety.”<sup>36</sup>

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<sup>35</sup> Vera Institute of Justice, *Preliminary Findings: Youth Charged as Adults in Maryland*, Presentation to the JJRC December 10, 2020, pg. 13. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>

<sup>36</sup> Task Force on Community Preventive Services, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*, 2007. [www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm](http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm). (The Task Force on Community Preventive Services (Task Force), which directs the development of the Guide to Community Preventive Services (Community Guide), conducted a systematic review of published scientific evidence concerning the effectiveness of laws and policies that facilitate the transfer of juveniles to the adult criminal justice system to determine whether these transfers prevent or reduce violence among youth who have been transferred and among the juvenile population as a whole. For this review, transfer is defined as placing juveniles aged <18 years under the jurisdiction of the adult criminal justice system. The review followed Community Guide methods for conducting a systematic review of literature and for providing recommendations to





In other words, charging kids in adult court is likely to increase recidivism and “increase the social cost of juvenile crime.”<sup>37</sup>

The weight of evidence shows that youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be rearrested for violent or other crime.<sup>38</sup> In Maryland, people leaving the adult prison system have a average 35.1% 3 year re-incarceration rate compared to a 15.4% average re-incarceration rate for youth transferred from adult court to juvenile court who were given treatment and intervention in DJS committed facilities.<sup>39</sup> The reincarceration rate is even lower for youth charged as adults who are transferred to juvenile court and only given a probation disposition. Those youth only end up reincarcerated at an average rate of only 10%. That is less than 1/5 the recidivism rate of young adults released from DPSCS custody before the age of 25, who have a 48.8% reincarceration rate.

This should not be surprising, both because the resources in the adult system are not developmentally appropriate, and the small number of young people who remain in the adult system are not involved long enough to access the few resources that exist. Most young people sentenced in adult court for armed robbery and assault receive an actual sentence of 3 years or less, and 94% of all young people sentenced as adults for handgun possession receive 18 months or less.<sup>40</sup> For children who are incarcerated, the most rehabilitative option available is the Patuxent Youth Program (PYP), which is largely inaccessible and insufficient: it has less than 10 clinicians serving over 1000 inmates in multiple programs, lacks any individual therapy, and has no real vocational or educational programming.<sup>41</sup>

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public health decision makers. Available evidence indicates that transfer to the adult criminal justice system typically increases rather than decreases rates of violence among transferred youth. Available evidence was insufficient to determine the effect of transfer laws and policies on levels of violent crime in the overall juvenile population. On the basis of these findings, the Task Force recommends against laws or policies facilitating the transfer of juveniles to the adult criminal justice system for the purpose of reducing violence.)

<sup>37</sup> Reforming Juvenile Justice, 134. <https://www.nap.edu/read/14685/chapter/1>

<sup>38</sup> *Effects on Violence of Laws and Policy Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System*, American Journal of Preventative Medicine, April 2007 <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>.

<sup>39</sup> DPSCS, *Recidivism Report*, November 15, 2022. [https://dpscs.maryland.gov/publicinfo/publications/pdfs/2022\\_p157\\_DPSCS\\_Recidivism%20Report.pdf](https://dpscs.maryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf); DJS Data Resource Guide FY2022 at page 213. DJS Automatic Charging of Children Briefing, January 24, 20223. [https://mgaleg.maryland.gov/meeting\\_material/2023/jpr%20-%2020133190439744448914%20-%20Briefing%20Materials.pdf](https://mgaleg.maryland.gov/meeting_material/2023/jpr%20-%2020133190439744448914%20-%20Briefing%20Materials.pdf).

<sup>40</sup> Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, December 10, 2020. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf> at 14.

<sup>41</sup> FY20 Patuxent Institutional Annual Report. <https://dpscs.maryland.gov/rehabservs/patx/patx.shtml>. For more information, please see the written testimony of Dr. James T. Fleming, testimony submitted 2/15/2023 to this same committee. Dr. Fleming is a Maryland forensic psychologist who spent 20 years working at the Patuxent Institution.



DJS can and does successfully serve young people charged and convicted of serious offenses: over 55% of the youth currently in DJS detention facilities are youth charged as adults pending transfer hearings.<sup>42</sup> DJS assesses all young people for the particular treatment and rehabilitative services required for the individual child. This assessment is done through an evidence based process and Multidisciplinary Assessment Staffing Team (“MAST”) staffing.<sup>43</sup> All DJS committed programs provide, at a minimum, (1) comprehensive behavioral health services (integrated mental health and substance abuse treatment, including suicide assessment and prevention, crisis intervention and stabilization, medication evaluation and monitoring, and individual, group, and family therapy); (2) trauma informed care (including specialized individual trauma-focused cognitive behavioral therapy for youth and trauma education for all residential staff, which includes, among other things, specific training in Trauma and Delinquency, Trauma’s Impact on Development, Coping Strategies, and Vicarious Trauma, Organizational Stress, and Self-Care); (3) Substance Abuse Services through a program entitled Seven Challenges; (4) Positive Behavioral Interventions and Supports (“PBIS”), an program for developing pro-social behavior and including a behavior motivation system, utilizing positive reinforcement and modeling, entitled STARR; (5) somatic health services (employing developmentally appropriate routine well care and routine medical monitoring in addition to medical care in times of illness or accident); and (6) educational services (including full time school in accordance with MSDE credit and graduation requirements, remediation where needed, and Special Education services for those students with an IEP.<sup>44</sup>

We know that rehabilitation works,<sup>45</sup> because the juvenile system is designed to address the developmental, somatic, and mental health needs of children and young adults. Research has in fact demonstrated that trying children in adult court does not decrease recidivism and in fact increases rates of criminality among youth.<sup>46,47</sup>

Neurodevelopmental immaturity leads young people to commit more crimes than their elders, because the prefrontal cortex (aka the seat of reasoning) is the last region of the brain to reach structural maturity. As such, a person under 18 has not developed the same control over their moral reasoning, judgment, impulse control, planning, character, and behavior that adults have. But that same neurodevelopmental immaturity is also an asset – the young brain’s plasticity means that young people are more susceptible, and successful, when offered comprehensive, evidence-based services geared at rehabilitation. Programs that focus on counseling, skill-

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<sup>42</sup> DJS Data Resource Guide FY2022 at page 127.

<sup>43</sup> DJS Data Resource Guide FY2022 at page 157.

<sup>44</sup> DJS Data Resource Guide FY2022 at page 158-60.

<sup>45</sup> See note 27. Overall, Lipsey’s meta-analysis indicated that juvenile treatment programs were effective for reducing juvenile recidivism, especially when they provided larger amounts of meaningful contact (treatment integrity) and were longer in duration (more dosage), were designed by a researcher or had research as an influential component of the treatment setting, and offered behavioral, skill-oriented, and multimodal treatment.

<sup>46</sup> Redding RE. Juvenile Transfer Laws: An Effective Deterrent to Delinquency? US Department of Justice, Office of Juvenile Justice and Delinquency Prevention; 2010. <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>

<sup>47</sup> Mason C, Chang S. Re-Arrest Rates among Youth Sentenced in Adult Court. Juvenile Sentencing Advocacy Project; 2001. <http://ncfy.acf.hhs.gov/library/2001/re-arrest-rates-among-youth-sentenced-adult-court>.



building, and restorative justice (like those provided in the juvenile system) have been shown to reduce youth recidivism by an average of ten (10) percent, while primarily supervision-based programs (like probation in the adult system) reduce recidivism by just one (1) percent.<sup>48</sup>

### **The Worst-Case Scenario**

Opponents of ending automatic charging present facts of a particularly shocking crime and say “Do you really think this case belong in juvenile court?” This committee should counter by asking those defenders of the status quo, “if it is so obvious that a particularly shocking crime belongs in adult court isn’t it true that a prosecutor will have no problem winning the waiver hearing?”

The worst-case scenario described by opponents of SB93/HB96 would likely be waived to adult court and be adjudicated more quickly under this bill than the current lengthy and time-intensive transfer process. Ending automatic charging limits the time young people who will ultimately have their cases adjudicated in juvenile court or dismissed spend in pre-trial detention and ensure that those young people deemed appropriate for rehabilitation start those services as quickly as possible.

Ending automatic charging also guarantees that a juvenile court judge retains full discretion over whether the youth is waived to adult court. Under the current regime, a 16- or 17-year-old child who is charged with First Degree murder or rape is ineligible for their case to be transferred to juvenile court, even if after a trial or plea the child is found guilty of a lesser offense that would have originally made them eligible for transfer.<sup>49</sup> The current transfer regime means that an officer’s original decision to charge a child with the most serious offenses in our state—without the benefit of full information of mitigating circumstances or full context—deprives *any* judge of discretion to send such a child to juvenile court even when it is warranted.

In sum, this bill does not prevent children from being tried in adult court. SB93/HB96 only requires that children have their case *start* in juvenile court so that a Judge can take an informed look at the circumstances of the case and the child, weigh the constitutionally required factors<sup>50</sup>, and decide if the case belongs in adult or juvenile court.

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<sup>48</sup> Lipsey, M. W. (2009). The primary factors that characterize effective interventions with juvenile offenders: A meta-analytic overview. *Victims and Offenders*, 4, 124–147, [www.episcenter.psu.edu/sites/default/files/community/Lipsey\\_Effective%20interventions%20-%202009.pdf](http://www.episcenter.psu.edu/sites/default/files/community/Lipsey_Effective%20interventions%20-%202009.pdf).

<sup>49</sup> Criminal Proceedings Article § 4-202(d).

<sup>50</sup> *Kent v. United States*, 383 U.S. 541 (1966) established the Constitution requires the court to conduct a “full investigation” and “set forth the basis for the order” to waive a child to adult court. The statutory factors a court considers in both waiver and transfer hearings are (1) the age of the child; (2) the mental and physical condition of the child; (3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children; (4) the nature of the alleged crime; and (5) the public safety.



### Conclusion

Maryland has been wrestling with this issue for more than a half century. As the *Special Committee on Juvenile Courts* declared over 50 years ago in 1966,

[N]othing positive is accomplished by subjecting a child who will ultimately be treated as a juvenile to all the pre-trial aspects of the adult criminal procedure.”  
Indeed, “nothing is lost by giving the Juvenile Court original and exclusive jurisdiction over children through age 17 with the power to waive to the Criminal Court.”<sup>51</sup>

This bill will not result in a huge change in the number of children sentenced to adult prison, but it will result in thousands less vulnerable children being warehoused in cells for months on end while their cases wind their way through the courts only to be ultimately transferred or dismissed. SB93/HB96 is a data-driven policy that will increase public safety and reduce recidivism of youth offenders. It is a public safety bill, and we urge this committee to vote favorably.

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<sup>51</sup> Report of the Legislative Council Special Committee on Juvenile Courts, January 1966 (occasionally referred to as the “Rasin Report”)

**SB0093\_JoShifrin\_FAV.pdf**

Uploaded by: Jo Shifrin

Position: FAV

SB0093\_JoShifrin\_FAV

Date of Hearing: February 16, 2023

Jo Shifrin

Bethesda, MD 20817

### **TESTIMONY ON SB0093 FAVORABLE**

#### **Juvenile Court – Jurisdiction (Youth Equity and Safety Act)**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Jo Shifrin

**OPENING: My name is Jo Shifrin. I am a resident of District 16. I am submitting this testimony in support of SB0093, Juvenile Court – Jurisdiction (Youth Equity and Safety Act) .**

I live in Bethesda and I am a Jew. In Deuteronomy 16:20, the Torah commands *Tzedek Tzedek Tirdof* – Justice justice you shall pursue. Why is the word justice repeated? Simkha Bunim of Pczsha, a Hasidic rabbi teaching in the early 19th century, said it means “Pursue justice justly.”

Judaism is guided by stories that impart values. *Tzelem elohim* teaches that all people are created in the Divine image, with inherent and equal dignity and value. In Proverbs 22:6, it says “Train a lad in the way he ought to go; He will not swerve from it even in old age.” In other words, the message is that children should be treated with dignity and value, but should be treated as children. Our job is to mentor them and help them understand the right way to live. If they make mistakes, they should be given a chance to learn from them, and learn how to make better choices. Children need to be taught not punished.

Automatically moving children to adult courts, and therefore, to adult prison facilities if convicted is the wrong policy. Autocharge is a racist practice that will only do harm to children. 80% of the kids tried and held in the adult court and prison system are Black, despite the fact that they represent less than 20% of Maryland juveniles. Autocharge will not provide the type of support that kids need and which is available in juvenile courts. Ending this practice would reduce violent crimes and also reduce the criminalization and incarceration of Black youth. Ending autocharge will also lead to significantly lower recidivism, because in adult prisons, children learn from seasoned criminals. In 1972, I spent time tutoring a young man in jail so that he could take his General Equivalency Diploma. It made me profoundly sad to see the effects of the carceral system on someone so young.

The Juvenile Court – Jurisdiction bill will enable all children accused of crimes to start out in a juvenile court. It will allow the judge to consider a variety of factors, and to decide whether to keep the case in the juvenile system or refer the child to an adult court. The passage of this bill

will protect some young people who deserve to be treated as kids rather than as adults. Fewer children will end up in adult facilities, there will be less violent crime, less recidivism, and fewer shattered lives. **I respectfully urge this committee to return a favorable report on SB0093.**

**WDC 2023 Testimony SB0093\_Final.pdf**

Uploaded by: JoAnne Koravos

Position: FAV





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**Senate Bill 93 – Juvenile Court -- Jurisdiction  
Judicial Proceedings Committee – February 16, 2023  
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club** (WDC) for the 2023 legislative session. WDC is one of Maryland's largest and most active Democratic Clubs with hundreds of politically active members, including many elected officials.

**WDC urges the passage of SB0093.** This bill would repeal the provisions in the Maryland criminal code that have the effect of automatically charging children as young as 14 years of age as if they were adults. WDC supports restoring the jurisdiction of the juvenile court for these children because neither science, concerns for public safety, nor ideas about justice, support the continuation of automatically charging children as adults in Maryland. In fact, this reform is long overdue.

**Charging youth as adults is at odds with the purpose of the juvenile justice system, is not supported by what science tells us today about adolescent development and reinforces the stark racial inequities in our criminal justice system.**

The juvenile justice system was founded a century ago with the goal of serving the best interests of the child. It was based on an understanding that children were different from adults and that a different approach was required for accountability, with a focus on rehabilitation and the child's future well-being, not punishment. We see the automatic charging of youth as adults as a misguided and harmful departure from that philosophy. It is a practice that indiscriminately throws young people into an unforgiving system where they are at risk of being prosecuted in adult court, sentenced to harsh punishment, and incarcerated in adult prisons without regard to any neurological differences between children and adults or a commitment to treating them humanely. Moreover, this policy of exclusion by statute disproportionately harms Black youth in Maryland, who are more likely to be sent to adult prison and receive longer sentences than their White counterparts for similar offenses. Over 85 percent of the youth charged as adults due to automatic charging in 2021 were Black.<sup>1</sup>

Research on adolescent brain development has since confirmed that the philosophy behind a separate system for youth was well-founded. Children have a less developed sense of right and wrong, are susceptible to peer influence, have reduced impulse control, and are unable to foresee the consequences

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<sup>1</sup> This calculation was done using data drawn from reports submitted by the Maryland Governor's Office of Crime Prevention, Youth, and Victim Services, *Juveniles Charged as Adults in Maryland for 1/1/2021-6/30/2021 and 7/1/2021-12/31/2021*, [Juveniles Charged as Adults - Governor's Office of Crime Prevention, Youth, and Victim Services \(maryland.gov\)](https://www.maryland.gov/governor/office-of-crime-prevention-youth-and-victim-services/)



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of their behavior. Furthermore, they overreact and are prone to risky experimentation. In fact, in many cases it is those differences in brain development that account for some of the terrible mistakes made by young people. Experts argue that they should be viewed as less culpable and blameworthy due to their diminished neurocognitive capacity. In addition, their behaviors are not fixed; youth are capable of learning and changing.<sup>2</sup>

Given what we know about the brains and development of children, they should not be defined by their worst mistakes, even when those mistakes involve the use of force and result in a tragedy for others. Science tells us that young people are not transformed into adults when they commit adult crimes, even the most serious crimes. With appropriate care and services, it is also possible to interrupt a cycle of violence for a violence-exposed young person who has become a perpetrator of violence.<sup>3</sup> It is both inhumane and foolish to ignore the tremendous capacity of young people to benefit from services focused on rehabilitation and that address their psychological and behavioral needs.

Since 2005, several Supreme Court decisions have recognized these differences between young offenders and adults in cases involving harsh sentences for offenders under 18.<sup>4</sup> For example, in *Miller v. Alabama*, Justice Kagan, writing for the majority, stated that “a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children.” Like many of the harsh sentencing laws involved in these cases, automatic charging policy was not based on any evidence whatsoever that all young people who commit certain offenses are beyond rehabilitation and undeserving of access to the system established to help young offenders transform. It is time for Maryland to roll back its outdated and harmful laws and give all young offenders the opportunities afforded by the juvenile justice system for consideration of their individual circumstances and assessment of their needs.

**The public interest in safety is not well-served by a senseless “tough on crime” policy that jeopardizes the prospect for rehabilitation and destroys the lives of young people the juvenile system was established to protect.**

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<sup>2</sup>Governor’s Office of Crime Control & Prevention, Report of the Maryland Task Force on Juvenile Court Jurisdiction (December 1, 2013), Appendix C-Literature Review and List of Considered Research, p. 33, <https://goccp.maryland.gov/wp-content/uploads/juvenile-court-jurisdiction-20131201.pdf>; Futures Denied, Why California Should not Prosecute 14-and 15-year-olds as Adults, Human Rights Watch (2018), p. 17-18, [https://www.hrw.org/sites/default/files/supporting\\_resources/crd0818.pdf](https://www.hrw.org/sites/default/files/supporting_resources/crd0818.pdf). Estivaliz Castro, David Muhammad, and Pat Arthur, “Treat Kids as Kids, Why Youth Should be Kept in the Juvenile System”, California Alliance, Youth and Community Justice (October 2014), p. 2, <https://nicjr.org/wp-content/uploads/2018/01/Treat-Kids-as-Kids-CAYCJ-Oct-2014.pdf>.

<sup>3</sup> Report of the Attorney General’s National Task Force on Children Exposed to Violence, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (December 12, 2012), p. 171-191, <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

<sup>4</sup>Roper v. Simmons 543 U.S. 51 (2005), Graham v. Florida 560 U.S. 48 (2010), Miller v. Alabama 567 U.S. 460 (2012), Montgomery v. Louisiana 577 U.S. \_\_\_ (2016), and Jones v. Mississippi 593 U.S. \_\_\_ (2021). For a description of the findings in these cases see Josh Rovner, “Juvenile Life Without Parole: An Overview,” The Sentencing Project (May 24, 2021), <https://www.sentencingproject.org/publications/juvenile-life-without-parole/>



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Transferring youth to adult court for trial and sentencing has been shown not to have the desired deterrent effect and to have produced the unintended effect of increasing recidivism.<sup>5</sup> Importantly, young people charged as adults are at risk of never receiving the education and socialization opportunities needed to acquire the skills, competencies, and experiences crucial to becoming productive adults.

In 2010, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention released a monograph that concluded, after a review of the empirical evidence, that laws that facilitate trying young people in adult court have little or no general deterrent effect on youth. It also found, after a review of large-scale studies, higher recidivism for youth charged as adults than those with similar offenses adjudicated in juvenile court.<sup>6</sup> A CDC report indicates that the subsequent offenses committed by those youth who are rearrested are also likely to be more violent.<sup>7</sup> Young people who have been convicted as adults have a wide range of emotional, developmental, academic, and behavioral needs that are not likely to be met in a facility that is designed to punish and incapacitate. The evidence is clear that charging youth as adults does not make communities safer, but instead puts society at greater risk.<sup>8</sup>

### **Ending automatic charging does not close the door to trying an individual youth in adult court.**

The oldest and most traditional way to do this is through a process that allows the juvenile court to waive jurisdiction on a case-by-case basis in which young people are sent to adult court. This authority is available under Maryland law, as it has been in many states, and would not be eliminated by SB0093. Appropriately, it is a transfer mechanism that requires the prosecutor to persuade the juvenile court in a hearing that the young person is not fit for rehabilitation, based on what is known about the individual.

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<sup>5</sup> Nicole Scialabba, Should Juveniles Be Charged as Adults in the Criminal Justice System, American Bar Association Articles (October 3, 2016), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2016/should-juveniles-be-charged-as-adults/>; The Impact of Prosecuting Youth in the Adult Criminal Justice System, A Review of the Literature, UCLA School of Law, Juvenile Justice Project (July 2010), [http://www.antoniocasella.eu/restorative/UCLA\\_july2010.pdf](http://www.antoniocasella.eu/restorative/UCLA_july2010.pdf); Jason R. Tashea, & Al Passarella, "Youth Charged as Adults: The Use and Outcomes of Transfer in Baltimore City," 14 U. Md. L. J. Race, Religion, Gender & Class 273 (2015), <https://digitalcommons.law.umaryland.edu/rrgc/vol14/iss2/4>; Human Impact Partners, Juvenile Injustice: Charging Youth as Adults is Ineffective, Biased, and Harmful (February 2017), p. 7, 28, <https://humanimpact.org/hipprojects/juvenile-injustice-charging-youth-as-adults-is-ineffective-biased-and-harmful/>;

<sup>6</sup> Richard Redding, "Juvenile Transfer Laws: An Effective Deterrent to Delinquency?" Juvenile Justice Bulletin, Office of Juvenile Justice and Delinquency Prevention, US Department of Justice, June 2010, <https://ojdp.ojp.gov/library/publications/juvenile-transfer-laws-effective-deterrent-delinquency>.

<sup>7</sup> Robert Hahn et al., "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services," Department of Health and Human Services, Centers for Disease Control and Prevention (November 2007), p. 9, <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

<sup>8</sup> Report of the Attorney General's Task Force on Children Exposed to Violence, p. 190.



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**The possibility of specific cases in which a transfer might be justifiable should not be seen as grounds for easing the pathway to adult court for entire categories of offenses.**

An individualized assessment by the juvenile court is critical to ensuring that children are not thrown into criminal court without consideration of who they are and how they ended up in the criminal justice system.<sup>9</sup> When the future life of a child is at stake, society has an obligation to at least consider the root causes of the most violent behavior, to weigh the mitigating circumstances when the child is arguably as much a victim as a perpetrator, and to focus on every young person's potential for rehabilitation. Notably, youth in adult prisons are at greater risk of physical harm and sexual abuse, solitary confinement, and suicide.<sup>10</sup>

The automatic charging of youth as adults in Maryland is a policy without a defensible rationale that has adversely affected thousands of young people under the age of 18.<sup>11</sup> It is time for Maryland lawmakers to acknowledge that the policies of the 1990s do not serve a valid public interest in safety or in helping some of our most vulnerable youth account for their crimes in a manner that allows them to become productive citizens. Judicial precedent tells us, the science tells us, social research tells us, common sense tells us that we have a far better chance of effectively addressing crime committed by children if we treat them as children.

**We ask for your support for SB0093 and strongly urge a favorable Committee report.**

Diana E. Conway  
WDC President

Carol A. Cichowski  
WDC Advocacy Committee

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<sup>9</sup> Jeree Thomas, "Youth Transfer: The Importance of Individualized Factor Review," Campaign for Youth Justice (March, 2018), p. 5, [http://www.campaignforyouthjustice.org/images/20180314\\_CFYJ\\_Youth\\_Transfer\\_Brief.pdf](http://www.campaignforyouthjustice.org/images/20180314_CFYJ_Youth_Transfer_Brief.pdf)

<sup>10</sup> Human Impact Partners, p. 22-24; Malcolm C. Young and Jenni Gainsborough, "Prosecuting Juvenile in Adult Court, An Assessment of Trends and Consequences", the Sentencing Project (January 2000), p. 6-7.

<https://www.prisonpolicy.org/scans/sp/juvenile.pdf>

<sup>11</sup> Issue Papers, 2022 Legislative Session, Department of Legislative Services (2021), p. 190, <http://dls.maryland.gov/pubs/prod/RecurRpt/Issue-Papers-2022-Legislative-Session.pdf>

**SB093 testimony jford.pdf**

Uploaded by: John Ford

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

I am a resident of District 46 and have enjoyed volunteer mentoring at city schools and care deeply about restorative justice and workforce development in Baltimore City.

**I am testifying in support of Senate Bill 93, the Youth Equity and Safety Act.**

SB093 would end the practice of charging juveniles as adults. Maryland has a long history of recognizing that juveniles are different from adults in ways that made it important to treat those arrested for crimes differently based on their age. The first law in Maryland ordering the segregation of those then labeled “juvenile delinquents” from adult detainees was passed in 1830,<sup>1</sup> although it took quite a while longer for our current system of a separate juvenile justice infrastructure to fully develop.

The concept behind the juvenile justice system has always been that children, being young and malleable, are more receptive to rehabilitation and that the best thing for society was that young people engaged in bad behavior were given help and resources to become good adult citizens. Although the language has changed over the decades, the basic principle remains sound. In fact, we’ve learned that scientific evidence supports the common sense idea that children’s brains are not as fully developed as those of adults, making them more impulsive and less able to appreciate the consequences of their actions.

In the 1990s, after nearly a hundred years of becoming more and more progressive in how it treated youths accused of crimes, Maryland did a sharp 180. Concerned with rising crime rates and preoccupied with what proved to be a myth about juvenile “super predators,”<sup>2</sup> Maryland became one of a number of states to pass harsher criminal laws which, among other things, mandated that more children be charged as adults.<sup>3</sup> Not after a hearing, not even on the discretion of a prosecutor, but automatically, based solely on the charge filed against them. Three decades have provided ample evidence that this juvenile justice strategy does not reduce recidivism. According to a recent white paper on recidivism from the National Institute of Justice, “Evidence suggests that the practice of transferring adolescents from juvenile to criminal court does not exert a significant effect on aggregate juvenile violent crime. It contributes to higher individual recidivism rates and adversely impacts other correlates of desistance from crime (e.g., lower income in adulthood). Howell and colleagues’ review of research confirmed that transferring youth to the adult system has detrimental effects on the likelihood, rate, and seriousness of reoffending.”<sup>4</sup>

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<sup>1</sup> Source: Maryland State Archives, <https://msa.maryland.gov/msa/mdmanual/19djj/html/djff.html>

<sup>2</sup> Carroll Bogert and Lynnell Hancock, *Superpredator: the media myth that demonized a generation of black youth*. The Marshall Project 2020. Available at: <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>

<sup>3</sup> Jason R. Tashia, & Al Passarella, *Youth Charged as Adults: The Use and Outcomes of Transfer in Baltimore City*, 14 U. Md. L.J. Race Relig. Gender & Class 273 (2015). Available at: <https://digitalcommons.law.umaryland.edu/rregc/vol14/iss2/4>

<sup>4</sup> Lila Kazemian, *Pathways to Desistance From Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice*, Nov. 2021 (internal citations removed). Available at <https://www.ojp.gov/pdffiles1/nij/301503.pdf>



Furthermore, the system actively harms people: juveniles charged as adults are thrown into a system designed solely for adults, their names are published in the media with sensational accounts of their alleged crimes, they may sit months and years in awaiting trial, and if convicted they face decades of prison or, if the judge deems them worthy of probation, a probation officer trained to work with adults who lacks the ability to provide the same wraparound services as the Department of Juvenile Services. Even worse, the data shows that the vast majority of kids charged in adult court are Black, meaning this law contributes to the marked racial disparity in the way the criminal justice system works.<sup>5</sup>

Prosecutors will no doubt argue that automatic adult charging is fine, because a judge has the opportunity to consider whether to send the juvenile to be tried in juvenile court. This ignores the fact that transfer to juvenile court after being charged as an adult does not erase or repair the trauma caused by being thrust into the adult system, the months sitting in jail without services or progress on their case, or the publication in the media of the juvenile's name and other identifying information. In contrast, if juveniles start in the juvenile system on day one, they benefit from quicker progress in the case, better understanding and accommodation of their needs as children, and the anonymity afforded to juvenile arrestees by law. A judge will still be able to send the case to adult court in the rare cases where it is warranted (after holding a hearing), but without the collateral damage to hundreds of other kids who never should have been in adult court, but whose charging as adults was required by law.

In recognition of the need for reform, in 2019 the General Assembly created the Maryland Juvenile Justice Reform Council and tasked it with examining the data and developing policies that would increase public safety and reduce recidivism. As you are no doubt aware, the JJRC recommended in its supplemental report issued in October 2021 that the practice of automatic charging of juveniles in adult court be ended. This legislation would implement that recommendation.

For these reasons, I strongly encourage you to vote in support of SB 93. It is certainly time to end the harmful practice of auto-transferring kids to a system built for adults. The trauma endured by minors, charged and treated as criminal adults, remains with them their entire life.

Thank you for your time, service, and consideration.

Sincerely,  
**John Ford**  
**3301 Fleet St**  
**Baltimore, MD 21224**

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<sup>5</sup> Juvenile Justice Reform Council Supplemental Report, [http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/JJRC-Report-Final\\_2021SupplementalReport.pdf](http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/JJRC-Report-Final_2021SupplementalReport.pdf)

# **The Sentencing Project supports Maryland SB93 . Ro**

Uploaded by: Josh Rovner

Position: FAV





## **Testimony of Josh Rovner**

*Director of Youth Justice*

**In support of SB93, The Youth Equity and Safety Act**  
Before the Maryland Senate Committee on Judicial Proceedings  
Feb. 16, 2023

Established in 1986, The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

We are grateful for this opportunity to submit testimony endorsing SB93, a bill to end the automatic charging of Maryland's youth as if they were adults.

We support this bill for three reasons:

1. Charging youth as if they were adults does not enhance public safety.
2. Starting all youth cases in juvenile court is more sensible and efficient than current practice.
3. Maryland's automatic transfer law is unusually harsh and unjust, particularly for Black youth.

...

### ***Charging youth as if they were adults does not enhance public safety***

Sending youth to the adult criminal justice system, for any offense, has generally been found to harm public safety. Most relevant studies have found transfer harmful, showing youth in the adult system are more likely to commit future offenses, and particularly more likely to commit the most violent offenses, when compared with peers in the juvenile system.<sup>1</sup> Howell, et al., note that "research consistently shows lower recidivism rates in the juvenile justice system than in the criminal justice system."<sup>2</sup>

For decades, studies have generally shown automatically charging youth as if they were adults harms public safety:

- After New York State passed automatic waiver in 1978, serious offending for the target population held steady while it fell in nearby Philadelphia.<sup>3</sup>
- After Idaho passed automatic waiver in 1981, its juvenile violent crime rate increased while neighboring Montana and Wyoming's respective juvenile violent crime rates dropped.<sup>4</sup>
- An examination of the effect of enhanced transfer laws passed in 14 states (through 2003), found juvenile crime held steady or increased in 13.<sup>5</sup>

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<sup>1</sup> Redding, R. (2008). Juvenile Transfer Laws: An Effective Deterrent to Delinquency?. *Juvenile Justice Bulletin*.

<sup>2</sup> Howell, J. C., Feld, B. C., Mears, D. P., Petechuk, D., Farrington, D. P. and Loeber, R. (2013) Young Offenders and an Effective Response in the Juvenile and Adult Justice Systems: What Happens, What Should Happen, and What We Need to Know. Washington, D.C.: U.S. National Institute of Justice (NCJ 242935), p. 4, 10-11.

<sup>3</sup>Singer, S.I., & McDowall, D. (1988). Criminalizing delinquency: The deterrent effects of the New York juvenile offender law. *Law & Society Review*, 22, 521-536.

<sup>4</sup> Jensen, E. L., & Metsger, L. K. (1994). A Test of the Deterrent Effect of Legislative Waiver on Violent Juvenile Crime. *Crime & Delinquency*, 40(1), 96-104.

<sup>5</sup> Steiner, B., and Wright, E., Assessing the Relative Effects of State Direct File Waiver Laws on Violent Juvenile Crime: Deterrence or Irrelevance, 96 *J. Crim. L. & Criminology* 1451 (2005-2006)

- A 1996 Florida study matched 2,738 youth who were transferred to adult court to those who were not, and found greater reoffending among the transferred youth.<sup>6</sup>
- A comparison of juvenile arrest rates for robbery and burglary (among the most common serious offenses committed by youth) in Northern New Jersey (where transfer laws were more lenient) versus those in New York City, found significantly higher arrest rates in New York for robbery and equivalent rates for burglary.<sup>7</sup>
- Another study comparing Northern New Jersey to New York City found youth charged with violent offenses and prosecuted in the criminal courts were likely to be rearrested more quickly and more often for violent, property, and weapons offenses.<sup>8</sup>
- A 2013 study in Washington state found higher reoffending rates among transferred youth.<sup>9</sup>

**In 2007, the CDC’s Task Force on Community Preventive Services reviewed decades of literature (such as the studies above) and concluded that sending a youth to the adult system generally increases rates of violence among youth.**<sup>10</sup> And Maryland’s process of automatically transferring children and adolescents accused of a lengthy but still specific list of offenses in the name of deterrence or public safety also contradicts findings from the National Research Council, which supports “a policy of retaining youth in the juvenile justice system” both to keep punishments proportional with the age of offenders and to prevent additional offending.<sup>11</sup>

In 2018, looking back at decades of this failed experiment, nationally renowned criminologist Barry Feld concluded, “Despite efforts to get tough, transfer laws failed to achieve their legislative goals and exacerbated racial disparities.”<sup>12</sup>

### ***Starting all youth cases in juvenile court is more sensible and efficient than current practice***

Maryland law, sensibly, allows for reverse waivers as one safety valve for the state’s aggressive and unusual list of charges that must be filed in adult courts. When a young person has their case automatically sent to criminal court, criminal court judges are then tasked with determining whether their courtrooms, or those of juvenile court judges, are the appropriate venue to proceed.

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<sup>6</sup> Bishop, D. M., Frazier, C. E., Lanza-Kaduce, L., & Winner, L. (1996). The Transfer of Juveniles to Criminal Court: Does it Make a Difference? *Crime & Delinquency*, 42(2), 171–191.

<sup>7</sup> Fagan, J.A. 1996. The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders. *Law and Policy* 18:77–113.

<sup>8</sup> Fagan, J., Kupchik, A. and Liberman, A. (July 2007). Be Careful What You Wish for: Legal Sanctions and Public Safety Among Adolescent Offenders in Juvenile and Criminal Court Columbia Law School, Pub. Law Research Paper No. 03-61.

<sup>9</sup> Drake, E. (2013). The effectiveness of declining juvenile court jurisdiction of youthful offenders (Doc. No. 13121902). Olympia: Washington State Institute for Public Policy

<sup>10</sup> The Community Preventive Services Task Force (2010, Aug. 26). Violence Prevention: Policies Facilitating the Transfer of Juveniles to Adult Justice Systems.

<sup>11</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: The National Academies Press, p. 134.

<sup>12</sup> Feld, B.C. (2018). Punishing Kids in Juvenile and Criminal Courts. *Crime and Justice*, 47, 417 - 474.

Those youths whose cases begin in adult court are not typically sentenced there. In fact, **roughly 85 percent of youth automatically sent to the adult justice system either have their case dismissed or sent back to the juvenile system.** This process typically takes roughly six months, during which time a similarly situated teenager in the juvenile courts will already be connected to needed treatment.

Clearly, too many young people begin their cases in adult courts under current law. A reasonable compromise, one offered under SB93, allows State's Attorneys to request a waiver to adult court on individual cases. The YES Act does not prevent children and adolescents from being charged and sentenced as if they were adults. It only changes where the case starts.

In short, the status quo sends hundreds of teenagers into adult courts to wait for a process that will dismiss the charge entirely or waive the youth back into the juvenile court more than 85 percent of the time. This is an astonishingly inefficient system likely to coerce guilty pleas from teenagers.

### ***Maryland's automatic transfer law is unusually harsh and unjust.***

Maryland has long been an outlier in its statutory exclusion laws. On the backs of this misbegotten history, no state other than Alabama sends more of its children per capita and adolescents into adult court based on the initial charge than Maryland.<sup>13</sup>

The first specialized juvenile courts were created in Chicago in 1899, concurrent with developments in psychology that recognized the uniqueness of adolescence as a stage in human development. (G. Stanley Hall, the first president of the American Psychological Association, published *Adolescence* in 1904.<sup>14</sup>) Youth were not well served by adult courts' procedures or adult courts' punishments, so juvenile courts spread to almost every state by 1925.

In 1933, Pennsylvania became the first state to open a direct pathway to adult court for children charged with murder. Maryland was the second, in 1945, and Mississippi was the third, in 1946. No states followed suit in the 1950s or 1960s.<sup>15</sup>

The political winds shifted in the 1970s and accelerated through the 1980s and 1990s. In 1979, 14 states had automatic waiver provisions.<sup>16</sup> Thirty-three states, including Maryland, enhanced their automatic transfer provisions between 1992 and 1995 alone.<sup>17</sup> After some states rolled back these

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<sup>13</sup> Mistrett, M. (2021, July 20). National Trends in Charging Children as Adults. Testimony before the Juvenile Justice Reform Council.

<sup>14</sup> Hall, G. S. (1904). *Adolescence: Its psychology and its relations to physiology, anthropology, sociology, sex, crime, religion and education*, Vol. 1. D Appleton & Company. <https://doi.org/10.1037/10616-000>

<sup>15</sup> Feld B. 1987. The Juvenile Court Meets the Principle of the Offense: Legislative Changes to Juvenile Waiver Statutes, *Journal of Criminal Law and Criminology* 78(3): 471-533, at 512-513.

<sup>16</sup> Redding, R.E. (2008), Juvenile Transfer Laws: An Effective Deterrent to Delinquency?. *Juvenile Justice Bulletin*..

<sup>17</sup> Torbet, P., Gable, R., Hurst, I., IV, Montgomery, L., Szymanski, L., and Thomas, D. (1996) State Responses to Serious and Violent Juvenile Crime. Washington, DC: US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Pg. 6.

laws, such laws now exist in 42 states. (In other words, eight states start all juvenile cases in juvenile courts.) States added more offenses to their lists, essentially matching where Maryland already sat in 1979. Maryland, with its 50-year head start, added more and more offenses, compiling a list that now totals 33 unique offenses.

State-by-state comparisons are difficult, but consider the fact that Virginia's automatic charging statute, passed in 1995, consists of two charges -- murder (separated into four categories) and aggravated malicious wounding.<sup>18</sup> And in 2020, Virginia raised the age at which its youth must be charged as if they are adults,<sup>19</sup> one of dozens of states to roll back its pathways into adult court.<sup>20</sup>

Passing SB93 would help make Maryland a leader in youth justice, but hardly an outlier. **Eight states start all youth cases in juvenile court, as envisioned by the YES Act: California, Hawaii, Kansas, Kentucky, Missouri, Oregon, Tennessee, and Texas.** Kentucky became the most recent state added to this list in 2021, passing SB 36 95-0 in its House of Representatives and 26-3 in its Senate.<sup>21</sup>

Moreover, this is a matter of racial justice: more than 80 percent of youth charged as if they were adults are Black.<sup>22</sup> The appropriate remedy is to start all cases in juvenile court, wherein a juvenile court judge can consider multiple factors before determining the correct venue to proceed with the case.

***The Sentencing Project endorses SB93, The Youth Equity and Safety Act, and is eager to see it advance in this legislative session.***

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<sup>18</sup> Steiner, B., and Hemmens, C. 2003 (spring). Juvenile waiver 2003: What are we now? *Juvenile and Family Court Journal* 54(2):1-24 at 24.

<sup>19</sup> Virginia HB 477 (2020).

<sup>20</sup> Evans, B. (2020). *Winning the Campaign: State Trends in Fighting the Treatment of Children as Adults in the Criminal Justice System (2018-2020)*. Washington, DC: Campaign for Youth Justice.

<sup>21</sup> Kentucky SB 36 (2021).

<sup>22</sup> Aanensson, K. (2023, Jan. 24). "Automatic Charging of Youth," Briefing before the Judicial Proceedings Committee: Department of Juvenile Services.

# **SB96\_DJS\_Support\_Written.pdf**

Uploaded by: Karalyn Aanenson

Position: FAV

Aruna Miller  
Lt. Governor

Wes Moore  
Governor

Vincent Schiraldi  
Acting Secretary

Date: Feb 16, 2023  
Bill # / Title: SB093 - Juvenile Court – Jurisdiction  
Committee: Judicial Proceedings Committee (JPR)  
Position: Support

The Department of Juvenile Services (DJS) supports SB 93. SB 93 eliminates the direct filing of juveniles in Maryland’s adult criminal justice system, ending all automatic charging of youth under 18 regardless of age or offense.

**SB 93 is a common sense, science and research-based approach to promoting positive outcomes for Maryland’s young people, their families, and our communities.**

**SB 93 aligns with the department’s current practices.**

Nearly all youth charged as adults in Maryland are ultimately served in the juvenile justice system.

- Over 85% of youth charged as adults either have their case dismissed or transferred back to the juvenile court.
- Current law presumes that all youth charged as adults will be held in a DJS operated detention facility while awaiting a transfer hearing.<sup>1</sup>
- Of the youth returned to the juvenile court, 70% are served in the community or have their case dismissed, and only 28% of youth received a court order for commitment to a residential facility.<sup>2</sup>

**SB 93 increases positive public safety outcomes for our communities.**

- Young people served in the juvenile justice system are less likely to recidivate than if served in the adult criminal justice system.<sup>3</sup>
- Youth automatically charged as adults who have their cases returned to the juvenile court have lower recidivism rates whether they are placed on probation (7.1%) or are committed to residential facilities (11.1%) than their counterparts who start in the juvenile system.<sup>4</sup> As such, these youth who are currently charged as adults, while they may be accused of more serious offenses, actually pose a lower risk of reoffending than youth DJS routinely serves.

**SB 93 reduces racial and ethnic disparities.**

Racial and ethnic disparities exist at every state of the juvenile justice system, and those disparities are overwhelmingly apparent when examining the population of youth who are charged as adults. Approximately 85% of all youth charged as adults in FY22 were youth of color,<sup>5</sup> despite youth of color making up less than 40% of Maryland’s population.<sup>6</sup>

**SB 93 supports fairness and efficiency.**

The juvenile system is designed to efficiently process, adjudicate and provide treatment interventions to justice involved youth. Currently, youth automatically charged as adults wait an average of 114 days before having the opportunity to request a court to transfer their adult case to juvenile court. In contrast, it takes an average of 60 days for a youth’s case

<sup>1</sup> Md Code, Criminal Procedure, 4-204

<sup>2</sup> [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf)

<sup>3</sup> [https://dpdcs.maryland.gov/publicinfo/publications/pdfs/2022\\_p157\\_DPSCS\\_Recidivism%20Report.pdf](https://dpdcs.maryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf)

<sup>4</sup> [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf)

<sup>5</sup> <http://goccp.maryland.gov/data-dashboards/juveniles-charged-as-adults-dashboard/>

<sup>6</sup> <https://www.census.gov/quickfacts/fact/table/MD/AGE295221>



processed in the juvenile system to reach final disposition. **The majority of youth automatically charged as adults wait an average of 114 days, the equivalent to a school semester, just to have to restart their case in the juvenile court.**

**SB 93 is consistent with the established research and science relating to adolescent development.**

The science is clear, there are key differences between children and adults related to decision making, impulsivity, risk-taking behavior, and culpability. Additionally, research has consistently found that children are able to change their behaviors, heal from trauma, and achieve positive outcomes when served in a system that is best designed to meet their individual needs based on adolescent brain development. Moreover, incarcerating children in adult facilities exacerbates negative outcomes and delays healthy development by denying them access to education, medical and behavioral health services.

**SB 93 maintains a pathway to the adult system.**

SB 93 removes the automatic adult court jurisdiction, but maintains the current law that provides a judge authority to waive a young person to the adult system. Judicial waiver places discretion with the juvenile court judge to determine if a youth should be in the adult system rather than basing the decision on automatic charging based solely on the youth's age and alleged offense. Youth may be waived to the adult court if the youth is at least 15 years old regardless of offense or if the youth is under 14 and charged with 1st-degree murder, 1st-degree rape, or 1st-degree sex offense .

For these reasons DJS requests a favorable report on SB 93.





**SB93\_KateSugarman\_FAV.pdf**

Uploaded by: Kate Sugarman

Position: FAV

2/16/2023

Kate Sugarman  
Potomac, MD 20854

**TESTIMONY ON SB93 - POSITION: FAVORABLE**  
**Juvenile Court – Jurisdiction**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Kate Sugarman

**OPENING: My name is Kate Sugarman. I am a resident of District 15. I am submitting this testimony in support of SB93, Juvenile Court - Jurisdiction.**

As a physician who lives in Montgomery County MD I know all too well the horrors and injustices of charging teens as adults.

It is well known to physicians that a young adult's brain is not fully formed until the age of 25 years old. Therefore it is most certainly unjust to charge a minor as though he or she is an adult.

I also know well as a physician that incarcerating teens has a lifelong detrimental effect. Teens who break the law need help, support, mental health services and rehabilitation. They do not need incarceration which generally makes it more likely that they will break the law in the future.

**I respectfully urge this committee to return a favorable report on SB93.**

**SB 0093 - Favorable.pdf**

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



# THE EPISCOPAL DIOCESE OF MARYLAND

## **TESTIMONY IN SUPPORT OF SB 0093:**

### **Juvenile Court – Jurisdiction**

**\*\*FAVORABLE\*\***

**TO:** Sen. William C. Smith, Jr., Chair, Sen. Jeff Waldstreicher, Vice Chair and the members of the Senate Judicial Proceedings Committee

**FROM:** Rev. Kenneth O. Phelps, Jr., Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

**DATE:** February 16, 2023

The Episcopal Church, at its 78<sup>th</sup> Convention in 2015, passed sweeping resolutions aimed at ending mass incarceration practices and mitigating solutions for the damages inflicted upon certain populations and communities by both arrest and sentencing policies and practices. The Episcopal Church at large and the Diocese of Maryland in particular has embraced the concept of reparations, a concept not limited to financial considerations but to a leveling of the playing field across a broad spectrum of issues, including criminal justice.

81% of youth charged in adult court in Maryland are Black. Black youth are more likely to be sent to adult prison and receive longer sentences than their white counterparts for similar offenses. And implicit bias research shows that Black kids are more likely to be seen and treated as adults than white kids.

This bill changes the way teens charged with serious felonies enter the justice system. Currently teens charged with any of 33 offenses are arrested and automatically charged as if they were adults, in criminal court. SB 0093 establishes that all youth under age 18 begin their cases in juvenile court.

Youth charged in adult court are less likely to receive rehabilitative services, which makes them more likely to reoffend than similarly situated youth charged in juvenile court. Research overwhelmingly shows that charging kids as adults does not improve public safety. According to the U.S. Department of Justice – “To best achieve reductions in recidivism, the overall number of juvenile offenders transferred to the criminal justice system should be minimized.”



# THE EPISCOPAL DIOCESE OF MARYLAND

Adult charging results in increased physical violence, sexual violence, and isolation. Research shows that youth charged as adults are at increased risk of physical and sexual assault and isolation from their families, which may contribute to future criminality. This bill protects kids and preserves families.

The Diocese of Maryland requests a favorable report.

# **HB 0096 AND SB0093 Watts for Zaragoza.pdf**

Uploaded by: Kimberlee Watts

Position: FAV



**NATASHA DARTIQUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
DIRECTOR OF POLICY AND DEVELOPMENT

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS DIVISION

## POSITION ON PROPOSED LEGISLATION

**BILL: HB 0096 AND SB0093**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: February 14, 2023**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0093.

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**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**

**Authored by: Kimberlee D. Watts, Forensic Mental Health Division, 410-279-7393,**

**Kimberlee.watts@maryland.gov**

I am an attorney with the Office of the Public Defender, and I am offering this testimony on behalf of my client Andrew Zaragoza. He is currently in the Division of Corrections' Patuxent Youth Program and so has no access to internet in order to be able to submit his own testimony and share his experience as a child who was prosecuted in adult court. But first, I would like to introduce him and give you a little bit of background information.

Mr. Zaragoza is now 22 years old, but when I first met him he was a 16 year old charged with murdering his mother. He bore scars from where his mother had stabbed his chest, and on his throat where he had tried to kill himself. The social worker supervisor from Child Protective Services who was investigating his case at that time was seeing the dissociative symptoms associated with Post-Traumatic Stress Disorder to such a significant degree that she had to get him PTSD specific therapy in order to complete her investigation. Her investigation was the first time anyone from CPS had talked to him without his abusive mother being present, despite that a CPS worker had been to the house one month before he killed his

mother, and 2 years before that in 2015. In fact, a month before her death his mother agreed to a safety plan with CPS, but she refused any services, and CPS allowed that to happen. This does not include the phone calls he made to the police for help over the course of years. On one occasion police involuntarily hospitalized his mother- she had her own very serious issues with mental illness and drug addiction, but despite the fact that was barricaded in a room hiding from his mother and calling the police for help while his father tried to keep her out, police did not report this to CPS. In short, despite mandatory reporting laws, agencies, and systems designed to protect children the law did nothing to protect Mr. Zaragoza as the child that he was. Nonetheless, when he attempted to protect himself from the onslaught of physical and sexual abuse at the hands of his mother, and inadvertently killed her, the law automatically charged him as an adult without even the possibility of a transfer hearing. Although he was acquitted by a jury of First Degree Murder, he was convicted of Second Degree Murder. Because he was initially charged with First Degree Murder he was not eligible for transfer to juvenile court even at sentencing. Instead the most rehabilitative option the judge had was the Patuxent Youth program. Andrew Zaragoza is absolutely someone who can be rehabilitated but now he's sitting in prison, in a program that purports to be designed to rehabilitate children but in reality offers very little rehabilitative programming. Although the Patuxent Institution has rehabilitative "modules" and a home group, Mr. Zaragoza has not been permitted to enroll in any modules, despite the fact that he has been at Patuxent for four years with no infractions.

He was in Advanced Placement Classes in High School, and easily earned his GED as soon as he was able to take the test. He is very interested in furthering his education, and is particularly interested in earning a Bachelor's Degree in Business Administration. Unfortunately, the only opportunity to earn a college degree is very limited in the number of spots available, and only offers a degree in Liberal Arts. Nor is there any vocational education, or job skills training, although he has been working in the kitchen. Instead of getting help to prepare to be a productive member of society, he is trying very hard not to stagnate, and not to give up hope for a better future. Despite the fact that he has nearly no family, he expresses gratitude for the friends he has. Instead of giving up and getting into trouble, he has had zero



rule violations in an environment where it is very difficult to follow all of the rules perfectly. He's in a place where you can literally get in trouble for wearing the wrong clothes in an environment where they provide clothes to you.

The following is what Mr. Zaragoza would like you to know about how our current laws have impacted him.

**Andrew Philip Zaragoza**  
**Inmate ID:4544068**  
**Patuxent Institution, Youth Program**  
**7555 Waterloo Road**  
**Jessup, MD 20794**

I am asking you to pass SB0093 to end the automatic charging of kids as adults. I see some of my fellow inmates slowly sinking down even further. They're not getting what they need, they're getting high every day. They're lost. They're just doing things that rack up more time. Being in DOC isn't making them any better or making anyone else safer.

I was 16 years old when I was arrested for killing my mother. I loved my mother, but she was mentally ill and addicted to drugs. I could always tell when she was high because she would make this horrible growling noise, take off her clothes, and walk around naked. When she was like this she often climbed naked on top of me if I was asleep in bed. Once, before my dad died, he and I had to barricade ourselves in a bedroom while she was high and she completely wrecked the house. I called the police for help, they sent her to the emergency room for a couple of days and then came back home. When she was on probation my parents made sure I never told her probation officer what was going on at home. My dad died of an overdose when I was 15, things got worse after that. My grand mom had lived in our basement and my mom kicked her out, and brought in a cousin and his boyfriend into the basement. They would all get drunk or high together. A couple of weeks before I killed her I called the police because the cousin's boyfriend hit me. A social worker from protective services came to the house, but she never talked to me alone, so I couldn't tell her about my mom. They put a safety plan in place, but my mom refused any other DSS services. When I was testifying at my trial, the prosecutor asked me why didn't I report the abuse. I told him reported the physical abuse- I had told my grandmother and, and because the abuse happened mostly when she was high they tried to get her to stop abusing her prescription medication. I called the police on more than one occasion, but nobody did

anything. I tried to spend as much time as possible away from home, either at school, the gym, or friends' houses. I was in 11th grade, and in honors and AP classes. I wanted to move out of my parents house and go to college. I had never been in trouble with the law before.

On the night I killed my mother she came home late at night, clearly high. She started molesting me and I told her I had had it and was calling CPS. She stabbed me in the chest. It was at that point that I fought back and killed her. I hadn't wanted to kill her, I just wanted her to stop and I was afraid she was going to kill me. When I realized I killed her, I tried to kill myself. I texted goodbye to a few of my friends, one of whom called the police.

I was taken to the hospital and had surgery. At first I kept coming in and out of consciousness. I was handcuffed to the bed by one arm and had an IV in the other. I also had shackles on my ankles, and a catheter. I was not allowed to shower because I was in jail custody & was deemed a security risk. I was only unshackled for a CAT scan, and the security guard complained about that. I was in the hospital for roughly 3 or 4 days.

Once I got to the detention center, they put me in a padded isolation room for 14 days because it was their protocol for someone who was suicidal. I was very mentally shut down. They put me on medication which wasn't particularly helpful, and took the staples out. The depression was so bad it was killing me, I just felt sadness, grief, and anger. I had to find a way to stop the running thoughts and do something productive. Even after I was off of isolation I was still in a cell alone for 23 hours per day until I turned 18 because they can't house adults and kids together. Being on 23 and 1 was mental agony. It's more than being bored. All you can do is write, read, sleep, and do pushups and sit ups. The cell was small- it was a double bunk with a toilet and sink. The door was metal with a small window at about eye level and a slot in the middle for guards to slide food to him. I spent about 18 months on 23 and 1, and for most of the time I was alone and didn't have a cell mate.

My lawyer asked me what it was like to be found guilty of second degree murder. As soon as the jury said it, I felt like I'd been punched in the sternum and the wind had been knocked out of me. The county jail asked if I was suicidal, and even though I said no, they stripped me naked and put me in isolation. At some point they gave me a smock- but it didn't provide much warmth and it was January, and the room didn't really have heating. It was very demeaning, and made me feel vulnerable.

At the Patuxent Youth Program we're supposed to have therapy and modules to do to rehabilitate us. I've been here since 2019, and even though I have no rule violations I still haven't

started any of the modules. I've repeatedly asked for the anger management module- which I think would help me. When I was first locked up I was lost, but I was able to find myself and figure out how to move forward. After I was locked up, DSS got involved and I was found a Child in Need of Assistance. My DSS worker got the jail to let a therapist come see me, and she helped me put the past to rest, I don't struggle with it like I used to. Right now, my problem is getting angry too fast, but no one here is helping me find a solution.

I can't really say how things would have been different if I had been in juvenile court, because I've never been to juvenile court before. I wasn't even allowed to have a hearing to transfer to juvenile court. It felt unfair that I never got to have a hearing, and that I never had a day in court to prove that I was a juvenile and that I could be rehabilitated.

I was finally able to finish taking the GED in August of 2021- I passed all the parts on my first try. I was ready to take the GED before my trial but the county jail couldn't set it up, and it took until August 2021 for me to be able to take the GED test.

I think I can still have a bright future, but being charged as adult has made it a lot harder. I'm blessed that I have support. I see other people here who don't. They're not getting what they need, they're getting lost. We're young and can still change, but we need help and support. Automatically charging us as adults isn't getting us help or support, it's just making things worse.

# **SB93 CJJ Support 2023.pdf**

Uploaded by: Leslie Frey

Position: FAV



## Montgomery County Commission on Juvenile Justice

**February 16, 2023**

**Written Testimony in Support of SB93**

Senator William C. Smith  
Chair, Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

Dear Senator Smith:

Thank you for the opportunity to submit written testimony on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ) on Senate Bill 93.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members that include the Child Welfare Services Program, the Montgomery County State's Attorney's Office, the Office of the Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

The MC CJJ strongly supports Maryland Senate Bill 93. This legislation will end automatic charging of young people as adults in Maryland by repealing provisions that send individuals as young as 14 years of age directly into adult court if they are accused of committing any one of 33 specified offenses.

Automatic charging is an unacceptable departure from the philosophy on which the separate system for juvenile justice was established in the first place--namely, that children are different from adults and should be served by a system that is focused on rehabilitation, not punishment. Automatic charging of youth as adults also conflicts with what we now know about adolescent development from brain science. In fact, such science has informed several Supreme Court decisions around harsh sentencing of youth, noting that children are less blameworthy and have substantial capacity to change.<sup>1</sup>

SB 93 does not close the door to prosecuting a particular youth in adult court. However, the traditional, and most appropriate and efficient, way to do this is through a process available under Maryland law that allows the juvenile court to waive jurisdiction on a case-by-case basis.

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<sup>1</sup>Josh Rovner, "Juvenile Life Without Parole: An Overview," The Sentencing Project (May 24, 2021), <https://www.sentencingproject.org/publications/juvenile-life-without-parole/>

This process allows the court to make a timely and individualized assessment of whether the young person is “unfit” for rehabilitation. Automatic charging inappropriately defines a young person by the nature of the offense without attention to individual factors relating to the offense or the young person’s background and needs, all of which should be part of any decision to transfer a youth to adult court. It is the Commission’s position that all cases involving minors should start in juvenile court regardless of the seriousness of the offense.

Young people charged in adult court are at risk of never getting the services and treatment available in the juvenile justice system that are critical to addressing their behavioral, mental health, developmental, and education needs. Providing young people access to developmentally appropriate rehabilitative services is not only necessary for their health and well-being, but also critical to public safety, as research tells us that incarceration in an adult prison puts a young person at increased risk of recidivism.<sup>2</sup> The public interest in safety is not well-served by a policy that jeopardizes the prospect of rehabilitation.

Finally, we are concerned about the racial disparities that automatic charging reinforces. Over 85 percent of the young people who were automatically charged in Maryland as adults in 2021 were Black—in a State in which Black children represent about 31 percent of the population of children between 5 and 17.<sup>3</sup>

Passing SB 93 will bring Maryland a step closer to protecting the human rights of some of its most vulnerable young people.

For these reasons, we strongly urge you to support this bill and strongly urge a favorable Committee report.

Sincerely,



Kevin Redden, Chair  
Montgomery County Commission on Juvenile Justice

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<sup>2</sup>Jeree Thomas, “Youth Transfer: The Importance of Individualized Factor Review,” Campaign for Youth Justice (March, 2018), [http://www.campaignforyouthjustice.org/images/20180314\\_CFYJ\\_Youth\\_Transfer\\_Brief.pdf](http://www.campaignforyouthjustice.org/images/20180314_CFYJ_Youth_Transfer_Brief.pdf);

Richard Redding, “Juvenile Transfer Laws: An Effective Deterrent to Delinquency?” Juvenile Justice Bulletin, Office of Juvenile Justice and Delinquency Prevention, US Department of Justice, June 2010, <https://ojjdp.ojp.gov/library/publications/juvenile-transfer-laws-effective-deterrent-delinquency>

<sup>3</sup>See reports submitted by the Maryland Governor’s Office of Crime Prevention, Youth, and Victim Services on Juveniles Charged as Adults in Maryland for 7/1/21-12/31/21 and 1/1/21-6/30/2021. [Juveniles Charged as Adults - Governor’s Office of Crime Prevention, Youth, and Victim Services \(maryland.gov\)](https://www.maryland.gov/governor/office-of-crime-prevention-youth-and-victim-services/)



**SB93 YES act.pdf**

Uploaded by: Lindsay Keipper

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

I am a resident of District 46, and I am also an attorney with 15 years of experience in the criminal courts. **I am testifying in support of Senate Bill 93, the Youth Equity and Safety Act (Juvenile Court- Jurisdiction).**

SB 93 would end the practice of charging juveniles as adults.

The concept behind the juvenile justice system has always been that youth, who by definition have not finished developing emotionally or cognitively, are more receptive to rehabilitation, and the best thing society can do for young people engaged in bad behavior is to invest resources in and support them to become healthy (and law-abiding) adult citizens. The first law in Maryland ordering the separation of those then labeled “juvenile delinquents” from adult detainees was passed in 1830.<sup>1</sup> Although the language we use has changed, and it took a number of years for a totally separate juvenile justice system to develop, the basic principle remains sound.

Unfortunately, after nearly a hundred years of becoming more and more progressive in how it treated youths accused of crimes, Maryland did an about-face. Amidst the “get tough on crime” rhetoric of the 1990’s, Maryland became one of many states which passed harsher criminal laws that, among other things, mandated that more children be charged as adults:<sup>2</sup> not in response to a hearing, not at the discretion of a prosecutor, but AUTOMATICALLY, based solely on the charge filed.

Three decades have provided ample evidence that this juvenile justice strategy does not reduce crime. According to a recent white paper on recidivism from the National Institute of Justice, “Evidence suggests that the practice of transferring adolescents from juvenile to criminal court does not exert a significant effect on aggregate juvenile violent crime. It contributes to higher individual recidivism rates and adversely impacts other correlates of desistance from crime (e.g., lower income in adulthood). Howell and colleagues’ review of research confirmed that transferring youth to the adult system has detrimental effects on the likelihood, rate, and seriousness of reoffending.”<sup>3</sup>

Furthermore, the system actively harms people: juveniles charged as adults are thrown into a system designed solely for adults, their names are published in the media with sensational accounts of their alleged crimes, they may sit months and years in awaiting trial, and if convicted they face decades of prison or, if the judge deems them worthy of probation, a probation officer trained to work with adults, who lacks the ability to provide the same wraparound services as the Department of Juvenile Services. Even worse, the data shows that the vast majority of kids charged in adult court are Black (even though Black people are roughly

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<sup>1</sup> Source: Maryland State Archives, <https://msa.maryland.gov/msa/mdmanual/19djj/html/djff.html>

<sup>2</sup> Jason R. Tashea, & Al Passarella, *Youth Charged as Adults: The Use and Outcomes of Transfer in Baltimore City*, 14 U. Md. L.J. Race Relig. Gender & Class 273 (2015). Available at: <https://digitalcommons.law.umaryland.edu/rrgc/vol14/iss2/4>

<sup>3</sup> Lila Kazemian, *Pathways to Desistance From Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice*, Nov. 2021 (internal citations removed). Available at <https://www.ojp.gov/pdffiles1/nij/301503.pdf>



30% of Maryland's population), meaning this law contributes to the marked racial disparity in the way the criminal justice system works.<sup>4</sup>

Prosecutors argue that automatic adult charging is fine, because a judge has the opportunity to consider whether to send the juvenile to be tried in juvenile court. This ignores the fact that **transfer to juvenile court after being charged as an adult does not erase or repair the trauma caused by being thrust into the adult system**, the months sitting in jail without services or progress on their case, or the publication in the media of the juvenile's name and other identifying information. In contrast, if juveniles start in the juvenile system on day one, they benefit from quicker progress in the case, better understanding and accommodation of their needs as children, and the anonymity afforded to juvenile arrestees by law. A judge will still be able to send the case to adult court in the rare cases where it is warranted (and AFTER holding a hearing), but without the collateral damage to hundreds of other kids who never should have been in adult court in the first place. **The vast majority of youth charged as adults are either returned to juvenile court or dismissed.**<sup>5</sup>

In recognition of the need for reform, in 2019 the General Assembly created the Maryland Juvenile Justice Reform Council (JJRC) and tasked it with examining the data and developing policies that would increase public safety and reduce recidivism. **As you are no doubt aware, the JJRC recommended in its supplemental report issued in October 2021 that the practice of automatic charging of juveniles in adult court be ended.** This legislation would implement that recommendation.

For these reasons, I strongly encourage you to vote in support of SB 93. It is certainly time to end the harmful practice of automatically sending kids to a system built for adults. Whatever the ultimate disposition of the complaints or charges against the youth, the trauma endured by minors, charged and treated as criminal adults, remains with them their entire life.

Thank you for your time, service, and consideration.

Sincerely,  
**Lindsay Keipper**  
**2425 Fleet St.**

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<sup>4</sup> Juvenile Justice Reform Council Supplemental Report, [http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Report-Final\\_2021SupplementalReport.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Report-Final_2021SupplementalReport.pdf)

<sup>5</sup> In 2017-19, 48% of juveniles charged as adults in Baltimore City were returned to juvenile court, and 33% were dismissed or otherwise closed without a verdict. In MDEC counties the figures were 41% and 36% respectively. Preliminary Findings: Youth Charged as Adults in Maryland, <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>, page 12.

**SB0093\_LisaHorowitz\_FAV.pdf**

Uploaded by: Lisa Horowitz

Position: FAV

February 16, 2023



Lisa A. Horowitz  
Bethesda, Maryland 20816

**TESTIMONY ON SB93 - POSITION: FAVORABLE**  
**Juvenile Court – Jurisdiction (Youth Equity and Safety Act)**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Lisa A. Horowitz, on behalf of Jews United for Justice (JUFJ)

My name is Lisa Horowitz and I am a resident of District 16, in Bethesda, in Bethesda. On behalf of Jews United for Justice (JUFJ), I am submitting this testimony in support of SB93, Juvenile Court – Jurisdiction (Youth Equity and Safety Act). JUFJ organizes 6,000 Jewish Marylanders and allies from across the state in support of social, racial, and economic justice campaigns.

Jewish history and values have long recognized the differing capacities of children and adults. *Yetzer harah*, the “evil inclination,” is seen as a drive toward pleasure that can be tempered by *yetzer hatov*, the “good inclination” or moral sense that leads to benefits toward oneself and society. The ability to “tame” the basic instincts, *yetzer harah*, with higher level reasoning, *yetzer hatov*, grows stronger as we mature, warranting different treatment of children and adults.

As a clinical neuropsychologist, I have seen firsthand, while providing cognitive assessments and psychotherapy to clients of all ages, how these rabbinic teachings are supported by cognitive neuroscience. Executive functioning skills are essential for higher level decision making, enabling us to plan, defer action, assess risk, and weigh options and consequences. Current research has established that these skills are the last of our cognitive abilities to develop, and that this development continues until as late as our 20’s. Teens are thus more prone to ill-considered decisions and impulsive behavior. As a society we recognize these distinctions when we set the age for such actions as voting, alcohol consumption, and entering into legal contracts.

My interactions with my clients, as well as my understanding of child development and cognitive neuroscience, have impressed on me the dramatic differences in child and adult thinking and the fallacy in treating children as adult actors with the same neurocognitive development. By treating teens as fully responsible actors and subjecting them to the adult criminal legal system, including adult jails and prisons, we lose critical opportunities for shaping and guiding their

thinking and allowing them to become responsible and productive members of our society. Additionally, children who have experienced poverty, trauma, abuse, and neglect are more likely to suffer from impaired executive functioning, making it even more unjust to further penalize these victims.

In Maryland, we send more young people to adult court based on offense type than any other state per capita except for Alabama. This practice leads to higher rates of recidivism and also fuels the unjust criminalization and incarceration of Black youth, who are disproportionately targeted by our legal system. Eighty percent of the children tried and held in the adult court and prison system are Black. While Maryland has made progress on youth justice issues in recent years, the unjust and racist practice of automatically charging children as adults must end. We should join the 26 other states who have passed laws to treat kids like kids and limit the pathways into adult courts.

**On behalf of Jews United for Justice, I respectfully urge this committee to return a favorable report on SB93.**

**sb093 - fav - testimony - ems.pdf**

Uploaded by: Liz Simon-Higgs

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

I am a resident of District 46. I have taught in City Schools, I am a parent of school-age children, and I have worked with young adults who have been caught up in the justice system.

**I am testifying in support of Senate Bill 93.** Senate Bill 93 would end the practice of automatically charging juveniles as adults.

**The juvenile justice system exists because youth, by definition, have not finished developing emotionally or cognitively.** Youth are more receptive to rehabilitation (as well as to bad influences), so the best thing society can do for young people engaged in bad behavior is to show them better behavior and to invest resources in their healthy development to become responsible adults. As Frederick Douglass said, “It is easier to build strong children than to repair broken men.”

And Maryland legislators recognized this, over 150 years ago. The first law in Maryland ordering the separation of those then labeled “juvenile delinquents” from adult detainees was passed in 1830,<sup>1</sup> although it took quite a while longer for our current system of a separate juvenile justice infrastructure to fully develop. But in the 1990s, after nearly a hundred years of becoming more and more progressive in how it treated youths accused of crimes, Maryland did an about-face. Amidst the “get tough on crime” rhetoric, Maryland (and several other states) passed harsher criminal laws that, among other things, mandated that more children be charged as adults.<sup>2</sup> This mandate to charge children as adults applied not in response to a hearing, and not at the discretion of a prosecutor, but automatically, based solely on the charge filed against the youth.

**Three decades have provided ample evidence that charging youth as adults does not reduce recidivism.** According to a recent white paper on recidivism from the National Institute of Justice, “Evidence suggests that the practice of transferring adolescents from juvenile to criminal court does not exert a significant effect on aggregate juvenile violent crime. It contributes to higher individual recidivism rates and adversely impacts other correlates of desistance from crime (e.g., lower income in adulthood). Howell and colleagues’ review of research confirmed that transferring youth to the adult system has detrimental effects on the likelihood, rate, and seriousness of reoffending.”<sup>3</sup>

Furthermore, the adult justice system actively harms youth: juveniles charged as adults do not attend school while awaiting trial, their names are published in the media with sensational accounts of their alleged crimes, they may sit months and years in awaiting trial, and if convicted they face decades of prison or, if the judge deems them worthy of probation, a

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<sup>1</sup> Source: Maryland State Archives, <https://msa.maryland.gov/msa/mdmanual/19djj/html/djff.html>

<sup>2</sup> Jason R. Tashea, & Al Passarella, *Youth Charged as Adults: The Use and Outcomes of Transfer in Baltimore City*, 14 U. Md. L.J. Race Relig. Gender & Class 273 (2015). Available at: <https://digitalcommons.law.umaryland.edu/rregc/vol14/iss2/4>

<sup>3</sup> Lila Kazemian, *Pathways to Desistance From Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice*, Nov. 2021 (internal citations removed). Available at <https://www.ojp.gov/pdffiles1/nij/301503.pdf>

probation officer trained to work with adults. Probation officers for adults lack the ability to provide the same wraparound services as the Department of Juvenile Services. Even worse, the data shows that the vast majority of youth charged in adult court are Black (even though Black people are roughly 30% of Maryland's population), meaning this law contributes to the marked racial disparity in the way the criminal justice system works.<sup>4</sup>

Prosecutors argue that automatic adult charging is fine, because a judge has the opportunity to consider whether to send the juvenile to be tried in juvenile court. While that is true, **transfer to juvenile court after being charged as an adult does not erase or repair the trauma caused by being thrust into the adult system**, the months sitting in jail without services or progress on their case, or the publication in the media of the juvenile's name and other identifying information. In contrast, if juveniles start in the juvenile system, they benefit from quicker progress in the case, better understanding and accommodation of their needs as children, and the anonymity afforded to juvenile arrestees by law. A judge will still be able to send the case to adult court in the rare cases where it is warranted (and AFTER holding a hearing), but without the collateral damage to hundreds of other kids who never should have been in adult court, and whose charging as adults was required by law.

In recognition of the need for reform, in 2019 the General Assembly created the Maryland Juvenile Justice Reform Council (JJRC) and tasked it with examining the data and developing policies that would increase public safety and reduce recidivism. **As you may know, the JJRC recommended in its supplemental report issued in October 2021 that the practice of automatic charging of juveniles in adult court be ended. This legislation, SB 093, would implement that recommendation.**

For these reasons, I strongly encourage you to vote in support of SB 093. It is certainly time to end the harmful practice of auto-transferring kids to a system built for adults. Whatever the ultimate disposition of the complaints or charges against the youth, the trauma endured by minors, charged and treated as criminal adults, remains with them their entire life.

Thank you for your time, service, and consideration.

Sincerely,  
Liz Simon-Higgs  
308 E Randall Street  
Baltimore, MD 21230

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<sup>4</sup> Juvenile Justice Reform Council Supplemental Report, [http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/JJRC-Report-Final\\_2021SupplementalReport.pdf](http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/JJRC-Report-Final_2021SupplementalReport.pdf)

# **SB93\_Louise Weissman\_Fav.pdf**

Uploaded by: Louise Weissman

Position: FAV



BILL#SB93\_Louise Weissman\_Fav  
Date of Hearing: February 16, 2023

Louise Weissman  
Greenbelt 20770

**TESTIMONY ON SB#93 - POSITION: FAV**  
**Juvenile Court – Jurisdiction (Youth Equity & Safety Act)**  
**Ending Automatic Charging of Youth as Adults**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Louise Weissman

My name is Louise Weissman and I am a resident of District 22. I am submitting this testimony in support of SB93, the Youth Equity and Safety Act to make our communities safer and make our youth justice system more equitable. The passage of this bill will ensure all juveniles begin their cases in the juvenile court system.

I am a member of a Jewish congregation, Oseh Shalom in Laurel. One of our most important texts is “*Tzedek tzedek tirdof*” - “*Justice justice you shall pursue*” (*Deut. 16:20*). Jews are guided by the concept of tzelem elohim, which teaches that all people should be treated with dignity, respect, and fairness. People who are Black or Brown, experiencing homelessness and/or mental health crises, those in poverty, and young people facing marginalization are disproportionately targeted for criminalization and are treated with discrimination.

I am the parent of two siblings (now adults) that came out of the foster care system. They joined our family when they were 10 and 8. They both carried multiple mental health challenges. While not engaged in violent activities, as juveniles, they and we were in court on more than one occasion. My husband and I have strong advocacy skills. We are sure those skills, along with our family’s privilege, were factors in helping the children avoid convictions that included jail. If any of their actions resulted from violent acts, we are sure they would have been autocharged. Prosecutors, judges and juries most likely would have missed the point or been insensitive to their history, including severe trauma..

Maryland law requires juveniles to be automatically prosecuted in adult court for 33 kinds of offenses. Per capita, that is the highest number of any state. Last year the state charged the same number of children as adults as Arizona, California, Colorado, Connecticut, Illinois, Kansas, Massachusetts, Minnesota, and Ohio combined. In our state, youth as young as 14 can be tried in adult court depending on the charge a law enforcement levies against them. When young people are automatically charged in adult court, they are more likely to reoffend with more violent crime than children who are charged in juvenile court. The practice conflicts with

scientific understanding of developmental science, and undermines the purpose of the juvenile court system, which pursues rehabilitation, not punishment.

Youth of color are overrepresented at every stage of the Maryland court system. Eighty percent of the kids disproportionately criminalized and incarcerated as adults are Black youth. They are more likely to be tried as adults than white youth, even when charged with similar crimes. Racial inequities are evident in the way youth of color are disciplined in school, policed, arrested, detained, sentenced, and incarcerated.

Twenty-six states have passed laws to treat kids like kids and end automatic charging. Auto-charging juveniles is a pernicious practice and it must end, and **I urge this committee to return a favorable report on SB93.**

# **Juvenile Court – Jurisdiction - Senate Bill 93 (SB**

Uploaded by: Marla Posey-Moss

Position: FAV

**Written Testimony Submitted for the Record to the Maryland Senate  
Judicial Proceedings Committee  
For the Hearing on  
Juvenile Court – Jurisdiction - Senate Bill 93 (SB93) (The YES Act)  
February 16, 2023  
SUPPORT**

Free State PTA represents over 50,000 volunteer members and families in over 500 public schools. Free State PTA is composed of families, students, teachers, administrators, and business as well as community leaders devoted to the educational success of children and family engagement in Maryland. As the state's premier and largest child advocacy organization, Free State PTA is a powerful voice for all children, a relevant resource for families, schools and communities and a strong advocate for public education. ***Senate Bill 93, Juvenile Court – Jurisdiction - aligns with Free State PTA's legislative agenda which states the use of compassionate youth justice by advocating for practices that are equitable within the justice system and considers the mental development of youth.***

Senate bill 93 (the Youth Equity and Safety – YES Act) is a very simple bill that many can easily make complicated when delving into details that don't impact the outcome of the bill. Senate bill 93 does one thing: places a child into juvenile court upon the charge of a serious felony instead of an adult court. The bill repeals language and adds no new law. The Free State PTA believes the YES Act helps resolves inequities, increases continuity of educational attainment, and minimizes recidivism while fostering greater access to youth rehabilitative services.

Free State PTA advocates for juvenile and criminal justice. The PTA supports this bill given the inherent inequities that exist when eighty-one percent of youth charged in adult court in Maryland are Black. Because Black youth are more likely to be sent to adult prison and receive longer sentences than their white counterparts for similar offenses, the PTA is fighting against this disparate discipline that this bill attempts to eradicate. Despite all the recent reforms intended to improve the juvenile justice system, judicial waivers in 2017 were the most racially disparate in 40 years. Implicit bias research shows that Black kids are more likely to be seen and treated as adults than white kids. The YES Act along with Free State PTA protects Black youth from discrimination.

From an education perspective, youth detained in a Maryland juvenile facility managed by the Department of Juvenile Services (DJS) are more likely to receive appropriate education while being detained. The Juvenile Services Education Program (JSEP) and its education Board is an independent unit within the DJS that oversees and provides comprehensive educational services to all juveniles placed in a DJS operated detention and residential facility.

Students can receive instruction in coursework aligned with the Maryland State Department of Education (MSDE) graduation requirements. Furthermore, students can receive Career and Technology Education (CTE) certifications, specialized instruction, participate in GED completion, receive comprehensive school counseling support, and post-secondary opportunities. Instruction in core content subjects, library/media services, life skills, and special education services are also

available. Having youth detained in an adult facility denies youth continuity in education while awaiting trial.

In fact, if the opportunity presented itself to have a waiver to change jurisdiction from an adult court to a juvenile court, youth would wait for as long as 140 days in solitary confinement in an adult institution. That experience in-and-of itself is traumatic and reflects the antithesis of trauma-informed care. Free State PTA values the YES Act highlight of rehabilitative services and treatment in juvenile facilities that are evidence-based and crime preventative. Free State PTA supports at all levels eradicating the negative impact of institutional racism. The Association represents all children advocates beyond rhetoric and rise to correct all inequities and injustices, and thus. urge the passing of SB 93.

Sincerely,

*Marla Posey-Moss*

Marla Posey-Moss, President

[mposey-moss@fspta.org](mailto:mposey-moss@fspta.org)

# **YES Act 2023R Written Testimony SB93.pdf**

Uploaded by: Marlon Tilghman

Position: FAV

To: Senators Smith, Waldstreicher, and members of the Judicial Proceedings Committee  
From: Rev. Dr. Marlon B. Tilghman, Pastor of Ames UMC Bel, Co-Chair within BRIDGE Maryland, Inc., Transformational Justice, and Member of the Maryland Youth Justice Coalition.  
Dual Residencies of District 44 & District 34B

Dear Senators,

BRIDGE Maryland, Inc. offers this moral imperative from members of our interfaith organization. Children and teens are influenced by authority and are at risk of emotional, cultural, and situational trauma if placed in adult situations and legal systems prematurely. Our sacred texts teach us that children are an inheritance from God (Psalm 127:3-5). And that God wants our children treated justly (Exodus 22:22-23); and treating children and teens like adults, in callous disposable ways affects a child's future and offends the Creator of us all (Matthew 18:10). I believe the Youth Equity & Safety Act is what Michael Eric Dyson meant when he said, "Justice is what love sounds like when it speaks in public."

And if I may make this personal for just a moment, my son was diagnosed with ADHD as a child only to be misdiagnosed because the symptoms mimicked bipolar disorder. Because of his mental illness, he made bad decisions. However, school staff, counselors, and my wife and I dealt with his poor decisions in a holistic way through diet, team sports, scouting, and the church. He also had encounters with law enforcement because he fit the description, "Dark skin, tall, wore a hoody and pants worn below the waist." Once, he was literally pulled over twice going to and from the 7-eleven which is only three blocks from our home.

An untreated person with bipolar disorder, in their manic state, can make bad decisions and under current law go to an adult jail. And what frightens me is that my grandchildren can face that same situation today. If an officer decides to escalate a situation that I've witnessed personally and in the media. Or if a bystander decides to report an incident without proper details and a child goes to jail in an adult system—the trauma of that situation could be devastating, and it is unnecessary. I firmly believe that poverty and greed are what's driving crime and imprisonment, and the Youth Equity & Safety Act is a commonsense step to curb the panic about our children who need care and not cages.

Furthermore, up until 2021 and 2022 when the Maryland legislature passed sweeping justice reform with law enforcement and child justice bills like the child interrogation protection act and minimum ages, Maryland was the worst offender in how Black people are treated by the law system. Consequently, the Youth Equity @ Safety (YES) Act is written to take what you've begun to the next level. The YES Act lets our children and youth know that their actions will be addressed first in the juvenile legal system where they can receive care and stress how their transgression has impacted lives.

The YES Act reduces the trauma that could be caused by the adult system. The YES Act places children who made a bad judgment decision with the care and resources that they need for a better future. You've read the science and the potential damage to a child and youth in the adult legal system, so why would any of us want our child or grandchild to experience that type of trauma? Therefore, I urge you to support and vote YES for the Youth Equity and Safety Act because it will affirm to our children that we believe that they deserve care and not cages.

Q&A At what age can a child be moved up to an adult system in the Y.E.S. bill as is?

- (1) Any child who is 15 and older can be waived up or
- (2) A child who has not reached his 15th birthday, but who is charged with a crime punishable by life imprisonment.



**Goemann, NJJN Testimony in support of MD SB 93.pdf**

Uploaded by: Melissa Goemann

Position: FAV

# NATIONAL JUVENILE JUSTICE NETWORK

Melissa Coretz Goemann  
National Juvenile Justice Network  
February 16, 2023  
FAVORABLE

## **Senate Bill 93 Juvenile Court – Jurisdiction**

Chairman Smith and Members of the Senate Judicial Proceedings Committee:

My name is Melissa Coretz Goemann and I am submitting this testimony in support of SB 93 on behalf of the National Juvenile Justice Network (NJJN). I am the Senior Policy Counsel for NJJN and am also a resident of Silver Spring, Maryland. NJJN is a membership organization focused on youth justice reform, which is comprised of 60 state-based organizational members and nearly 100 Youth Justice Leadership Institute (YJLI) members and alumni in 42 states across the country, including Maryland.

By ending the automatic charging of youth as adults, this bill will ensure that the determination of whether to charge a young person as an adult is given the serious consideration by a judge that this significant, life-altering decision requires. The negative impacts of treating youth as adults are substantial and often life-long, affecting individual youth, their families, and communities.<sup>1</sup> Youth held in adult facilities are extremely vulnerable to physical and sexual assault and have much higher rates of suicide than youth in juvenile facilities.<sup>2</sup> The adult system also lacks general educational programming, special education services, and appropriate physical and mental health care for youth.<sup>3</sup> Youth with adult criminal records will likely have difficulty finding employment and may suffer from other collateral consequences such as restrictions on voting rights, access to higher education, joining the military, or living in public housing. These failings have a direct impact on public safety, as research shows that adult system processing and incarceration increases recidivism among teens.<sup>4</sup>

Adult sanctions for youth also do not account for fundamental differences in culpability. Studies of adolescent brain development have revealed that the part of a young person’s brain related to judgment

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<sup>1</sup> See, e.g., Campaign for Youth Justice, “The Consequences Aren’t Minor: The Impact of Trying Youth as Adults and Strategies for Reform” (March 2007), [https://www.njjn.org/uploads/digital-library/CFYJNR\\_ConsequencesMinor.pdf](https://www.njjn.org/uploads/digital-library/CFYJNR_ConsequencesMinor.pdf).

<sup>2</sup> Campaign for Youth Justice, “Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America” (November 2007): 4, 11-13, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1697706](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1697706); James Austin, et al., “Juveniles in Adult Prisons and Jails: A National Assessment” (Bureau of Justice Assistance, October 2000): 7-8, <https://www.ncjrs.gov/pdffiles1/bja/182503.pdf>.

<sup>3</sup> Campaign for Youth Justice, “Jailing Juveniles,” 4-7.

<sup>4</sup> “Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services” (Centers for Disease Control and Prevention, April 2007): 6-8, [www.cdc.gov/mmwr/pdf/rr/rr5609.pdf](http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf).

and impulse control is generally not fully developed until the early to mid-twenties.<sup>5</sup> As part of normal development, youth are more likely to take risks, act impulsively, and are highly susceptible to the negative influences of peers. Though these age-related factors may contribute to youthful mistakes, youth are uniquely capable of change. In fact, several recent U.S. Supreme Court decisions have cited these differences between youth and adults as necessary considerations when it comes to imposing extreme adult sentences and evaluating police custody.<sup>6</sup> These decisions rely on both scientific evidence related to the psychology and development of children and youth, as well as a more general understanding that children possess a broad capacity for rehabilitation and positive change.

Finally, being tried as an adult is a sanction that falls disproportionately on the shoulders of Black youth. Approximately 7,800 juveniles were automatically charged as adults in Maryland from 2013-2020, and about 80 percent of them were Black.<sup>7</sup> Pursuant to the Department of Juvenile Services' Data Resource Guide for Fiscal Year 2022, of the youth charged as adults held in juvenile detention facilities, 83.3 percent were Black.<sup>8</sup> Such blatant disparities undermine the principle of fairness, highlighting the immediate need for serious consideration by a judge before a young person is transferred into the adult system.

Nationally, the tide is shifting away from transferring youth to adult court. Twenty-six states have made changes to their laws on the automatic transfers of youth into adult court in the past fifteen years. Yet Maryland is one of only nine states that transfer over 200 children to the adult system every year<sup>9</sup> and only Alabama transfers youth to adult court at a higher rate than Maryland does.<sup>10</sup>

We urge Maryland to pass SB 93 ending the automatic charging of youth as adults and instead require that all court proceedings against young people begin in the juvenile court system, as recommended by the Maryland Juvenile Justice Reform Counsel,<sup>11</sup> to ensure that the transfer of youth into adult court does not occur without the considered review of a Maryland judge.

Respectfully Submitted,

Melissa Coretz Goemann

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<sup>5</sup> National Juvenile Justice Network (NJJN), "Using Adolescent Brain Research to Inform Policy" (Washington, DC: NJJN, September 2012); 1, [https://www.njjn.org/uploads/digital-library/Brain-Development-Policy-Paper\\_Updated\\_FINAL-9-27-12.pdf](https://www.njjn.org/uploads/digital-library/Brain-Development-Policy-Paper_Updated_FINAL-9-27-12.pdf).

<sup>6</sup> See, e.g., *Roper v. Simmons*, 543 U.S. 551 (2005) (eliminates the death penalty for crimes committed while youth are under age 18); *Graham v. Florida*, 560 U.S. 48 (2010) (bans life without parole sentences for youth under age 18 convicted of non-homicide offenses); *J.D.B. v. North Carolina*, 564 U.S. 261 (2011) (holds that age is relevant factor to consider when determining whether a child is in police custody for Miranda purposes); and *Miller v. Alabama and Jackson v. Hobbs*, 567 U.S. 460 (2012) (ban mandatory life without parole sentences for youth 17 and under).

<sup>7</sup> Brian White, "Supporters of Juvenile Justice Reform Hopeful in Maryland," *The Baltimore Sun*, Dec. 21, 2021, <https://www.baltimoresun.com/politics/bs-md-pol-maryland-juvenile-justice-reform-20211222-zxc3wrnn6vef7iwluivjur5lpy-story.html>.

<sup>8</sup> Maryland Department of Juvenile Services, "Data Resource Guide Fiscal Year 2022" (Baltimore, MD: Maryland Department of Juvenile Services, 2022):135, [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf).

<sup>9</sup> White, "Supporters of Juvenile Justice Reform."

<sup>10</sup> Maryland Department of Legislative Services (DLS), "The Juvenile Justice Reform Council Supplemental Report" (Annapolis, MD: October 2021): 40, [Juvenile Justice Reform Council Supplemental Report \(maryland.gov\)](https://www.dls.maryland.gov/Documents/JJRCSupplementalReport.pdf).

<sup>11</sup> DLS, Supplemental Report, 12.

**SB93\_QVM\_Testimony\_SUPPORT.docx.pdf**

Uploaded by: Molly Finch

Position: FAV



February 15, 2023

Dear Chairman Smith, Vice Chairman Waldstreicher, and Members of the Committee,

**Quaker Voice of Maryland is submitting this testimony in FAVOR of SB0093 – Juvenile Court - Jurisdiction.**

Quakers believe that all people can change and have historically been active in criminal justice system reform work to ensure that people who enter the system are provided with the appropriate rehabilitative services so they can return to our communities as successful members. This bill stands out to our members as important legislation because it would protect our youth who are entering the justice system. By establishing that all teens charged under the age of 18 begin their cases in juvenile court we would be supporting better outcomes for the youth and the community.

There are many reasons this legislation can lead to better outcomes for individuals and communities, but I will highlight two in this piece of testimony: (1) Youth who are charged in adult court may be less likely to have access to rehabilitative services that are appropriate for their needs, which can lead to reoffending in the future, and (2) Youth who are charged as adults are at an increased risk of sexual assault, physical harm, and being placed in solitary confinement as a protection mechanism. To be clear, this bill does not mean youth cases can never reach adult court, but it does change the way youth charged with serious felonies enter the justice system.

Quaker Voice of Maryland chose this bill as one of our legislative priorities for 2023 because of the positive effect on criminal justice reform this would have on our State. If you are interested in learning more about the issue and how passing this legislation will lead to positive change for youth I recommend you read the Maryland Youth Justice Coalition bill fact sheet:

<https://advancemaryland.org/wp-content/uploads/2023/02/YES-Act-Fact-Sheet-MYJC.docx-2.pdf>

We encourage a FAVORABLE report for this essential legislation.

Sincerely,

Molly Finch

*Working Group Member, on behalf of Quaker Voice of Maryland*

*Personal email: mgsfinch@gmail.com*

*Organization email: quakervoicemd@gmail.com*

# **JJMU-OAG TESTIMONY IN SUPPORT OF SB 93 - JUVENILE**

Uploaded by: Nick Moroney

Position: FAV



STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL  
JUVENILE JUSTICE MONITORING UNIT

TESTIMONY IN SUPPORT OF SB 93: JUVENILE COURT - JURISDICTION  
*Judicial Proceedings Committee*  
February 16, 2023

Submitted by Nick Moroney, director, Juvenile Justice Monitoring Unit

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The Juvenile Justice Monitoring Unit (JJMU) supports SB 93. We work to prevent abuse and ensure appropriate services in the deep end of Maryland's juvenile justice system. Our reports are at: <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>

The automatic prosecution of children and young people as if they were adults is a relatively recent practice that takes away the balance afforded by court discretion to weigh allegations, charges and circumstances on a case-by-case basis when deciding whether to subject youth to the adult criminal justice system. The vast majority of youth who are automatically charged as if they were adults do not end up in the adult criminal justice system but, in the meantime, they may have been needlessly subjected to the risks associated with confinement through the adult criminal justice system – a system that has ultimately been found to be inappropriate for them.

The racial disparity regarding those subjected to automatic charging is stark: over 80 percent of young people automatically charged in Maryland are children of color. Driving youth into the adult detention and prison system entails high risk of abuse as well as self-harm for the young people left among adult criminal actors and also offers little to nothing by way of individualized services and support for those young people in that system - that is in stark contrast to the juvenile system. The juvenile system centers on service provision and the Department of Juvenile Services offers individualized services and supports for youth, regardless of the level of charges pressed against them.

If the current bill becomes law, it will not mean the end of prosecuting children as adults in Maryland, but it will mean the right of a court to examine charges and make decisions based on individual facts and circumstances is reinstated. Rather than having an automatic decision based on a type of charge, prosecutors will need to offer arguments to support turning a young person over to the adult criminal justice system.

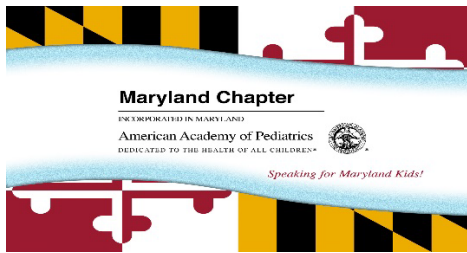
**For these reasons, the JJMU supports SB 93 and respectfully urges the committee to give the bill a favorable report.**

**SB0093\_FAV\_MDAAP\_Juvenile Court - Jurisdiction.pdf**

Uploaded by: Pam Kasemeyer

Position: FAV





TO: The Honorable William C. Smith, Jr., Chair  
Members, Senate Judicial Proceedings Committee  
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
Christine K. Krone  
410-244-7000

DATE: February 16, 2023

RE: **SUPPORT** – Senate Bill 93 – *Juvenile Court – Jurisdiction*

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The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 93.

Senate Bill 93 proposes to reform Maryland's law as it relates to the jurisdiction of the juvenile court. While the Juvenile Court generally handles cases involving youth who are under the age of 18, there are multiple ways a young person under the age of 18 may be subjected to initial jurisdiction in the adult criminal court. Currently, Maryland law requires young people who are 14 and older and charged with a crime that carries a sentence of life imprisonment if committed by an adult, to be charged directly in the adult court. In addition, young people who are 16 and older and charged with one of 33 crimes are also required to be automatically charged as an adult. In both instances, young people directly charged in the adult criminal justice system are tried and sentenced in that system unless their case is transferred back to the juvenile justice system.

Years of research on brain development has demonstrated that the frontal lobes, which are the seat of reasoned judgment and higher order cognitive decision making, develop late and continue to develop in late adolescence into early adulthood, rendering the adolescent brain consequentially distinct from the adult brain. Charging juveniles in adult court fails to recognize that they are physiologically disadvantaged to adjust their behavior to the mandate of the law in comparison to adults. The juvenile court system, given its established responsibility to promote the best interests of children while helping them to adjust their behavior, is better suited to adjudicate youth cases than adult criminal courts. Evidence shows that youth and public safety outcomes suffer when children are charged in the adult courts.

Passage of Senate Bill 93 will ensure that all cases involving juveniles will be required to begin in juvenile court. While some youth's cases may ultimately be moved to adult court, the burden will fall on the State to establish why juvenile adjudication would be inappropriate. A favorable report is requested.

# **Support SB 93 - Juvenile Jurisdiction.docx.pdf**

Uploaded by: Philip Caroom

Position: FAV

**MARYLAND ALLIANCE FOR JUSTICE REFORM**  
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee  
FROM: Phil Caroom, MAJR Executive Committee  
DATE: Feb. 16, 2023

Maryland Alliance for Justice Reform (MAJR - [www.ma4jr.org](http://www.ma4jr.org)) supports SB 93 to eliminate the automatic charging of juveniles (age 16 and older) as adults for a long list of felony offenses.

I offer these remarks as a recently retired Juvenile administrative judge and based on more than 30 years in the system also as a prosecutor, defense attorney, and Juvenile Court master - n/k/a magistrate.

Legislators should recognize five key facts:

1) Maryland’s Juvenile Justice system offers much more extensive and individualized rehabilitative services for every juvenile committed to custody than our adult correctional system, which actually provides services to only a tiny percentage of incarcerated Marylanders.

2) Juveniles, given appropriate treatment services and time, have a much greater opportunity for rehabilitation than adults age 25 and over. Many scientific studies, repeatedly accepted by the U.S. Supreme Court, make clear that “emerging adults” (those under age 25) have brains which still are developing and commonly may be expected to gain better judgment and behavior as they reach maturity. For example, see the discussion in “*The Intersection between Young Adult Sentencing and Mass Incarceration,*” *Wisconsin Law Review* (2018).

3) Even if SB 93 is passed, other provisions in Maryland law still would permit an appropriate case to be “waived” from Juvenile Court to adult criminal court. However, that waiver decision would be decided only after a waiver hearing by a statutorily-qualified and regularly-trained Juvenile Court judge. Md. Code, Courts Article, sec. 3-8A-06. At that hearing, the Juvenile Judge would receive extensive reports and testing of the juvenile, then would consider a number of factors as to whether the juvenile is “a fit subject for rehabilitative measures.” For example, the Juvenile Judge might consider whether services available in the juvenile system previously have been tried and have failed to work.

4) The mixing of juveniles with a population of “higher risk” adult offenders, it is well-known, increases the risk of future criminal behavior by the juveniles, according to many reliable scientific studies. For example, see “Effects [of] transfer of youth from the juvenile to the adult justice system” - <https://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.

5) Finally, it’s important to realize that the system of letting prosecutors automatically charge certain juveniles does not require them to consider the impact on the juveniles or their future prospects. Elected State’s Attorneys are not, by statute, required to receive any training as to juveniles or their prospects for rehabilitation. Practically, the current system permitting automatic charging as adults has resulted in huge racial disparities, according to one recent report, such that 80% of those charged as adults are African-Americans.

<https://www.baltimoresun.com/news/crime/bs-md-co-cr-appeals-court-juvenile-ruling-20210804-jfbr3t6ukjgetp rd26fgjagtby-story.html>

For all the above reasons MAJR strongly supports SB 93.

*PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.*

# **SB 93 - Juvenile Court - Jurisdiction.pdf**

Uploaded by: Ralph Watkins

Position: FAV



**TESTIMONY TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE**

**SB 93 – Juvenile Court -- Jurisdiction**

**POSITION: Support**

**BY: Nancy Soreng, President**

**Date: February 16, 2023**

The League of Women Voters of Maryland supports the use of specialized judges, counseling services, and coordination of programs and services provided by the state agencies in the administration of juvenile cases. We also believe that these programs and services must be geared to working with the families of the juveniles involved in order to be effective.

SB 93 would expand juvenile court jurisdiction over children charged with committing certain acts. The specialized procedures of juvenile courts recognize that children at this age are in a stage of neuro-psychological development that requires different treatment than adult offenders. Minors are particularly vulnerable as they are less likely to understand legal terminology and procedures. Expanding the jurisdiction of the juvenile court would avoid the exponential harm experienced by child offenders when introduced into the adult justice system. Young offenders are also vulnerable to violence, manipulation and abuse when in detention. Restoring the jurisdiction of the juvenile court would also address the disparate racial impact of prosecuting juveniles as adults, as described in the Racial Equity Impact Note prepared for SB 165, a similar bill considered in the 2022 session of the General Assembly.

Because the provision of services tailored to the needs of juveniles is essential for the successful implementation of this bill, we also urge the General Assembly to work with the Governor to ensure that juvenile justice services are adequately funded.

We urge a favorable report on SB 93.

**Written Testimony SB 93 - Stahl CFCC Final).pdf**

Uploaded by: Rebecca Stahl

Position: FAV



Sayra and Neil Meyerhoff  
Center for Families,  
Children and the Courts

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## Support SB 93

Juvenile Court – Jurisdiction (Youth Equity & Safety Act)

Ending Automatic Charging of Youth as Adults

February 16, 2023

Senate Judicial Proceedings Committee

Dear Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

I am the Executive Director of the University of Baltimore School of Law Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC). CFCC's mission is to create, foster, and support a national movement to integrate communities, families, and the justice system to improve the lives of families and the health of the community. CFCC has operated the Truancy Court Program (TCP) in at least five Baltimore City Public Schools each year for more than 17 years, and we see first-hand the impact the legal system has on our TCP students. I also represented more than 1000 children in child welfare cases in Arizona and California over the course of my career, and many of those children were also involved in the juvenile justice system. I have written articles on trauma and the child welfare system and co-authored a book, *Representing Children in Dependency and Family Court: Beyond the Law*, focused on the psychological issues lawyers for children should understand. I was also a Fulbright Scholar in New Zealand studying the role of lawyers for children. **I urge you to issue a favorable report on SB93.**

**The Youth Equity and Safety Act, SB93** is necessary to stop the automatic removal of juvenile cases to adult court based on a particular crime. Because the current law requires certain offenses to be transferred automatically to adult court, Maryland sends more youth per capita to adult court than any other state except Alabama.<sup>1</sup> Automatic removal does not further the goal of deterrence because data show that rather than reducing, it increases crime. Further, the major goal of the juvenile system is supposed to be rehabilitation, yet youth who are removed to adult court are more likely to experience increased trauma and recidivate upon release from prison.

Children who are removed to the adult criminal system are more likely to be assaulted and are nine times more likely to die by suicide.<sup>2</sup> The increased exposure to physical and sexual assault in adult jails and prisons increases the trauma to children. Further, youth have less experience navigating their own mental health issues, including anxiety, fear, and trauma. Unlike the juvenile system, the adult criminal system lacks the appropriate services to support youth and their mental health. Thus, youth react to their trauma, without support, and their reactions to these mental health issues get them more severely punished in adult jails and prisons.<sup>3</sup> Thus, the adult system increases the likelihood of trauma, which increases the likelihood of traumatic responses, and it has no support for youth to learn to respond differently than from their

<sup>1</sup> <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>

<sup>2</sup> Children in Adult Prison, <https://eji.org/issues/children-in-prison/>

<sup>3</sup> Children in Adult Prison, <https://eji.org/issues/children-in-prison/>

automatic trauma responses.

Further, treating adolescents as adults ignores years of research on adolescent brain development. Brain development research is clear that adolescents are more likely to take risks.<sup>4</sup> Data demonstrate that as adolescents get older, the likelihood of them recidivating is reduced. Treating children as adults when they are not, does nothing to impact how they will act in the future except to cause them more trauma. A key indicator of reducing recidivism is growing older.<sup>5</sup> Thus, keeping children in the juvenile system will afford them access to age-appropriate services, and allowing children to grow older are the best ways to reduce recidivism.

Finally, the current law that automatically removes children to adult court perpetuates the racial disparities that exist in the criminal system. Youth of color are more likely to be tried as adults than white youth, even when being charged with similar crimes. In Maryland between 2017-2019, 93% of juveniles tried as adults were youth of color; 80% were Black.<sup>6</sup>

SB93 would protect youth from the adult criminal system, reduce trauma, reduce racial disparity, and reduce recidivism. For these reasons, **I urge you to support SB93.**

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<sup>4</sup> Juvenile Justice and the Adolescent Brain, <https://clbb.mgh.harvard.edu/juvenilejustice/>

<sup>5</sup> "Why Judges Need to Understand the 'Developing Brain' for Juvenile Sentencing," <https://scholars.org/contribution/why-judges-need-understand-developing-brain-juvenile-sentencing>

<sup>6</sup> Vera Institute, Preliminary Findings: Youth Charged as Adults in Maryland, Dec. 10, 2020. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.



## **Sponsor Testimony**

Uploaded by: Senator Carter

Position: FAV



The Town of Washington Grove  
P. O. Box 216  
300 Grove Avenue  
Washington Grove, MD 20880

voice: 301-926-22566  
email: washgrove@comcast.net

Via Electronic Mail

February 14, 2023

Maryland Senate Judiciary Proceedings Committee  
Senator William C. Smith, Jr., Chair  
Senator Jeff Waldstreicher, Vice Chair

**RE: Testimony in support of Senate Bill 335 “Real Property – Unlawfully Restrictive Covenants – Modification by Municipalities.”**

The practice of imposing racially restrictive covenants by private individuals and even public institutions on properties sold in the State of Maryland before the 1950s is well documented. In 1948 the Supreme Court ruled (*Shelley v. Kraemer*) that racially restrictive covenants were unenforceable by States because they violated the equal protection clause of the Constitution. The deed covenants themselves were made illegal by the 1968 Fair Housing Act. However, because deed covenants remain through succeeding property sales, a legal process that can be cumbersome and costly is needed to remove them. More recently, Montgomery County instituted a process that facilitates property owners removing such illegal covenants without cost if appropriately requested with submission of appropriate paperwork. Unfortunately, the covenants remain present on a very large number of deeds including those that have changed hands, partly because property owners are ignorant that they exist and partly because the process requires that each property owner originate action to legally strike them. That they continue to exist is morally abhorrent and intolerable in our community and in a state that professes to promote equality for all.

In 2020 Washington Grove became aware that almost one-half of deeds of private property in town contained racially restrictive covenants stemming from property sales between about 1929 and 1953, many of them included in the deeds of municipal land sold by the Town itself. Washington Grove properties are representative of the widespread inclusion of racially restrictive covenants in many communities in Montgomery County and the State of Maryland.

The Washington Grove Town Council acted in 2021 to declare these covenants morally and constitutionally abhorrent and enacted an ordinance to terminate them and to commit the Town to aid property owners who wish to strike the covenants from their deeds.

In acknowledging the historical municipal participation in placing illegal covenants in property deeds originally sold by the Town, the Town Council of Washington Grove strongly feels the

obligation to further *insure* their removal. We have already committed to providing the required deed copies and paperwork for individual property owners to initiate the existing process for removing racially restrictive covenants, and the first few have been successfully recorded. However, the authority granted us by HB0182 will substantially aid in this by enabling *the Washington Grove to initiate the legal removal process, rather than individual property owners*, for all identified properties, unless expressly denied by the property owner.

We urge Committee members and the Legislature to recognize the inherent moral obligation that drives our interest in removing the racially restrictive covenants, and to provide Washington Grove and other municipalities the authority to do so. This will be a significant action that will contribute to making progress on the broader goals of acknowledging past racial discriminatory policies and their lasting effects and fulfill our aspiration of equity and a more diverse community.

Thank you.



John Compton

Mayor, Town of Washington Grove



Charlie Challstrom

Former Mayor and Councilor, Town of Washington  
Grove

**SB0093\_StephanieJoseph\_FAV.docx (1).pdf**

Uploaded by: Stephanie Joseph

Position: FAV

**Testimony for the Senate Judicial Proceedings Committee**  
**February 16, 2023**  
**SB 93 – Youth Equity and Safety Act**

**FAVORABLE**

To Chair Smith, Vice Chair Waldstreicher, and members of the Committee,

I am writing in support of SB 93, the Youth Equity and Safety Act (“YES Act”). As a resident of District 18, a parent and as a juvenile defender, I urge you to pass this important legislation.

As a juvenile defender for 20 years, I have seen the devastating impact of our current law on hundreds of children and their families. In sum, no children should have to experience Maryland’s jails and prisons. Over the years, I have received numerous calls from the local jail about suicide attempts and mental health breakdowns after my youth clients are held in isolation for long periods without access to mental health treatment. Children sentenced to prison often face even worse conditions with less hope for release. We Marylanders are fortunate to have a new Governor who believes that we should “leave no one behind.” Warehousing children in our jails and prisons is leaving our most vulnerable population behind.

As a parent and community member, I want our schools and communities to be safe. The best way to do that is to treat the underlying causes of delinquent behavior by working to eradicate poverty and investing in our schools and programs for our children. Numerous studies show that children are less likely to recidivate if we provide them with treatment through the juvenile court.

As Nelson Mandela said, “There can be no keener revelation of a society’s soul than the way in which it treats its children.” I ask you to vote for this bill so that Maryland can join the 26 other states that treat children like children in their court systems. I urge a favorable vote on SB 93.

Sincerely,  
Stephanie Joseph  
9909 Forest Grove Dr.  
Silver Spring, MD 20902  
240-605-1045  
sljustice14@gmail.com

**SB0093\_TobyDitz\_FAV.pdf**

Uploaded by: Toby Ditz

Position: FAV

February 15 2023  
Toby Ditz  
Baltimore, Maryland 21717

**TESTIMONY ON SB93 YES ACT – FAVORABLE**  
**JUVENILE COURT-JURISDICTION**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Toby Ditz.

I am Toby Ditz, a resident of District 40 in Baltimore City. I am submitting testimony in **strong support of SB93.**

I am also a retired historian of the United States. One of my specialties is the history of family life. Historical scholarship shows that this country has never been willing to grant to Black children the same protections as we do white children. We have always treated the children of the poor as little laborers, not as vulnerable youngsters who deserve the same respect for their developmental needs as children of wealthier families. But our failure to respect or even to recognize Black childhood is also the legacy of enslavement, with its brutal labor regimes and utter disregard for the integrity of Black families, and its aftermath in the era of Jim Crow. As implicit bias studies have shown again and again, racist stereotypes of Black children persist strongly to this day. We see them as more dangerous and impulsive than white children, and as older than they are.

In the 20th and the 21st century, the criminal justice system has been one of the main inheritors and perpetrators of our differential treatment of white and Black children and families. The criminalization of Black childhood is at its most extreme when we treat children literally as *if they were adults* in criminal courts. It is staggering that more than 81% of children charged in adult courts in Maryland are Black; as a result they have less access to rehabilitative services available to the young and more exposure to violence.

We Marylanders must act decisively to disrupt the dismaying history of disparate treatment of black children, especially in the criminal justice system. Let's start by making sure children are treated as children when they first come to court.

I add this bill builds in many exceptions for certain classes of crime; it is hard to see what possible excuse there is for failing to champion the end of "auto-charging."

**I respectfully urge this committee to return a favorable report on SB93.**

# **SB 93 Juvenile Court Support .pdf**

Uploaded by: Windy Ortega

Position: FAV



# Maryland Criminal Defense Attorneys' Association



## Md Senate – Judicial Proceedings Committee

February 16, 2023

### Hearing on SB 93

### Juvenile Court - Jurisdiction

## MCDAA POSITION: SUPPORT

**Brief bill explanation:** This bill expands the jurisdiction of the juvenile court to establish original jurisdiction over (1) children age 14 and older who are alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment; (2) children age 16 and older who are alleged to have committed specified crimes; and (3) children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. The bill repeals existing statutory provisions that (1) govern the potential transfer of such children from (adult) criminal court to the juvenile court (“reverse waiver”) under specified circumstances and (2) designate the acts currently excluded from the juvenile court’s jurisdiction as “reportable offenses” in the Criminal Procedure and Education Articles.

**MCDAA’s position:** MCDAA sees this legislation as one of the most important and far-reaching bills in the 2023 session. Its implementation would dramatically reduce the time needed to bring resolution to charges against juveniles. Currently, defense attorneys bring THOUSANDS of “reverse waiver” motions each year on behalf of juvenile defendants in order to have the charges heard and resolved in juvenile court instead of adult criminal court. This legislation requires the enumerated charges to begin in juvenile court, thus obviating the need to file such motions, saving time and expense for the courts and the parties, both prosecution and defense.

For additional information or questions regarding this legislation, please contact MCDAA Government Relations Contact John Giannetti 410.300.6393, [JohnGiannetti.mcdaa@gmail.com](mailto:JohnGiannetti.mcdaa@gmail.com)

**2023-02-16 SB 93 (Support with Amendments).pdf**

Uploaded by: Hannibal Kemerer

Position: FWA

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE MCLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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February 16, 2023

**TO:** The Honorable William C. Smith Jr.  
Chair, Judicial Proceedings Committee

**FROM:** Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

**RE:** SB0093 – Juvenile Court – Jurisdiction (Support with Amendments)

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The Office of the Attorney General urges the Judicial Proceedings Committee to favorably report with amendments Senate Bill 93. Our Organized Crime Unit within our Criminal Division is working with the advocates on a compromise measure that we hope to provide the Sponsor and Committee in the near term.

As introduced, Senator Carter's bill repeals all provisions permitting prosecutors to directly charge juveniles in adult court for dozens of specified crimes. Senate Bill 93 is a good faith attempt to take cognizance of recent Supreme Court jurisprudence establishing that under the U.S. Constitution children are different than adults.<sup>1</sup> These cases rest upon an emerging scientific consensus that children have both diminished culpability and a heightened capacity for rehabilitation.

While we agree that, under current Maryland law, far too many enumerated crimes permit prosecutors to direct file against juveniles in adult court, we do believe that permitting prosecutors to do so in the worst of violent crimes—e.g. murder, rape, and serial violent crimes—should continue to qualify for direct file. Because Department of Juvenile Services

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<sup>1</sup> See e.g. *Tatum v. Arizona*, --- U.S. ----, 137 S.Ct. 11 (2016) (granting, vacating, and remanding in several cases where Arizona courts failed to consider individual circumstances of juveniles sentenced to life without parole); *Montgomery v. Louisiana*, 577 U.S. 190, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016) (holding that *Miller v. Alabama* holding that Eighth Amendment mandatory life sentences without parole for juvenile offenders is a new substantive constitutional rule that was retroactive on state collateral review); *Miller v. Alabama*, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) (mandatory life without parole for juvenile offenders is unconstitutional); *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010) (Eighth Amendment prohibits imposition of life without parole sentence on a juvenile offender who did not commit homicide, and State must give juvenile nonhomicide offender sentenced to life without parole a meaningful opportunity to obtain release); and *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005) (prohibiting death sentences for those who committed their crimes before age 18).

intake decisions (i.e. whether to commit or leave a juvenile in community supervision) are not immediately reviewable, it makes sense to permit prosecutors the discretion to remove particularly violent juvenile offenders from the community. Many of these same juveniles will have significant criminal histories warranting their separation from society at large pending trial on only the most violent of crimes.

For the foregoing reasons, the Office of the Attorney General urges the Committee to favorably report SB 93 with amendments continuing to permit direct file against juveniles who commit murder, rape, or serial violent crimes.

cc: Committee Members

# **MCPA-MSA-SB 93 Juvenile Court Jurisdiction\_Oppose.**

Uploaded by: Andrea Mansfield

Position: UNF



# 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:** Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

**DATE:** February 15, 2023

**RE:** **SB 93 – Juvenile Jurisdiction**

**POSITION:** **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** SB 93. This bill would give the juvenile court exclusive jurisdiction over extremely serious offenses that currently begin in the adult system.

Currently, Maryland law recognizes that juveniles may engage in behavior that is “juvenile.” Offenses such as vandalism, theft, and fourth degree burglary are appropriately handled in the juvenile system. A juvenile who participates in minor crimes should receive guidance, treatment, and rehabilitation. The juvenile system has the legal authority to provide services until the person turns twenty-one; as a practical matter, the juvenile system’s effectiveness ends at age eighteen.

Maryland law also correctly recognizes that there are some offenses whose consequences are so severe that there needs to be a more forceful response. The adult court has the authority to impose incarceration for up to the maximum sentence and to place the youth on probation for up to five years (or ten years in some cases). The adult court has the ability to accomplish three extremely important goals that the juvenile system cannot: 1) incapacitation; 2) punishment; and 3) long-term supervision and services.

Supporters of SB 93 and similar bills frequently contend that human brains are not fully formed until age twenty five and use euphemisms such as “emerging adults.” They argue that because a juvenile’s brain is not fully developed, they are less responsible for their decisions and should not be held accountable. If their argument is followed to the logical conclusion, every juvenile – and especially every juvenile male – should be removed from society until they turn twenty-five. The reality is that the overwhelming majority of our young do *not* commit murder, do *not* commit rape; do *not* rob or carjack. They are able to control their behavior and avoid harming others.

Another reality is that there are some juveniles who *do* decide to engage in violent, dangerous, and terrorizing acts. A seventeen year old who brings a gun to a parking lot with the intent to rob a sixteen year old who thinks he is simply selling some shoes is not someone acting out of impulse. This is a person who has made adult decisions and should face adult consequences. When that same seventeen year old shoots and kills his victim, the victim’s parents will not find solace in a legal system that says,

“Your son’s killer didn’t know better. That’s why he is not going to prison. But don’t worry, we will watch over him until he turns 21.” The people of Maryland deserve better.

When the juvenile can be charged as an adult, the juvenile can be immediately removed from the community for the protection of the community. The juvenile system does not provide the same guarantee of public safety. The State’s Attorney for Prince George’s County recently told WTOP that adults are already using juveniles to commit violent crimes, including providing them with guns<sup>1</sup>. That should surprise no one. There will always be those who take advantage of a system where juveniles receive fewer or no consequences. That has been a result of last session’s Juvenile Reform Act; juveniles under thirteen understand there are *no* consequences for their behavior and our middle schools are suffering because of it.

Over the last few years, every part of Maryland has seen an increase in violent crimes committed by juveniles. Issuing a Juvenile Offense Report and expecting the Department of Juvenile Services and the juvenile court to protect the community and hold the offender accountable is dangerous and misguided.

Our current system is by no means perfect and conversations about how to improve it are vital. Completely removing juveniles who commit dangerous crimes from the adult system is the opposite of an improvement.

For these reasons, MCPA and MSA OPPOSE SB 93 and urge an UNFAVORABLE Committee report.

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<sup>1</sup> [Prince George’s Co. prosecutors say carjacking more organized than before - WTOP News](#)

**SB 93 - UNFAV - OPP.pdf**

Uploaded by: Gavin Patashnick

Position: UNF





## Maryland State's Attorneys' Association

3300 North Ridge Road, Suite 185

Ellicott City, Maryland 21043

410-203-9881

FAX 410-203-9891

Rich Gibson  
President

Steven I. Kroll  
Coordinator

**DATE:** February 16, 2023

**BILL NUMBER:** SB 93

**POSITION:** Unfavorable

The Maryland State's Attorney's Association (MSAA) opposes SB 93.

### **I. Introduction**

Juvenile jurisdiction involves multiple statutes, rules, and administrative procedures and is more complex and interrelated than commonly understood. The collateral consequences of eliminating automatic adult jurisdiction involve the disruption of many of these facets that will certainly create unintended (or perhaps intended) effects. These effects will compromise certain aspects of public safety and ultimately expose some weaknesses in the juvenile justice system. Below are just a few of the potential issues that arise from such a complete repeal.

#### **A. Arrest Warrants**

Obtaining a juvenile arrest warrant is cumbersome for law enforcement. Like most procedures, each jurisdiction has some variances in actual practice, but the essential methodology is governed by statute. Pursuant to Courts and Judicial Proceedings Article § 3-8A-14.1(a), in order for an arrest warrant to be issued against a child, a law enforcement officer must make an application to a Department of Juvenile Services ("DJS") Intake Worker. That worker then has up to 25 days to conduct an inquiry under Courts and Judicial Proceedings Article § 3-8A-10(c) to determine whether "judicial action is in the best interests of the public or the child." If the allegation is a felony, the worker must forward the application to the State's Attorney's Office for the jurisdiction where the alleged delinquent act occurred.<sup>1</sup>

If the intake officer approves the filing of a petition, the intake officer "may" file the application for an arrest warrant with the court. A judge may only issue a warrant if the judge finds (based

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<sup>1</sup> Courts and Judicial Proceedings Article § 3-8A-10(c)(1)-(4)

on the affidavit filed by a law enforcement officer) that there is probable cause to believe that: (1) the suspect child has committed a delinquent act; and (2) unless the suspect child is taken into custody, the child may do one of the following things: leave the jurisdiction of the court, avoid apprehension, cause physical injury or property damage to another, or tamper with, dispose of, or destroy evidence.<sup>2</sup> In practice, all of the above review is conducted during business hours.

For juveniles charged as adults, the process is much simpler. Pursuant to Courts and Judicial Proceedings Article, § 2-607, a law enforcement officer must make an application to a District Court Commissioner who may issue an arrest warrant if there is probable cause to believe an individual has committed a qualifying crime, the whereabouts of the defendant are unknown, and the issuance of a warrant is necessary to subject the defendant to the jurisdiction of the court or the defendant poses a danger to another person or to the community.<sup>3</sup> District Court Commissioners are typically available 24 hours and law enforcement officers have unlimited access. Additionally, pursuant to recent legislative action, a Commissioner's authority is not without limits as, upon a finding of good cause, a judge may recall an arrest warrant issued by a District Court Commissioner.<sup>4</sup>

The main issue with the juvenile warrant process is speed. Under the current system, a juvenile suspect who police have probable cause to believe has committed a direct file<sup>5</sup> offense, which are very serious and might involve a victim, may be apprehended quickly, so long as a law enforcement officer satisfies the requirements for commissioner-based warrants. Arrest warrants are typically disseminated rapidly throughout a law enforcement network so that all officers are apprised and can take action swiftly to prevent any additional harm to the community or another victim.

If direct file is eliminated, law enforcement will have to rely on the juvenile warrant process, which involves multiple levels of review that take time to accomplish. For juveniles accused of violent crimes such as murder, rape or armed carjacking, waiting for the review process and warrant to be complete risks public safety and could result in another person being harmed.

## **B. Detention**

Pursuant to Courts and Judicial Proceedings Article § 3-8A-15, a DJS intake officer has discretion to determine whether a youth may be detained from the point at which that youth is taken into custody. If the intake worker determines that a youth be detained or subject to an alternative to detention, such as community detention, electronic monitoring or shelter care, that decision must be reviewed by a judge the next business day.<sup>6</sup>

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<sup>2</sup> Courts and Judicial Proceedings Article § 3-8A-14.1 (b)

<sup>3</sup> Courts and Judicial Proceedings Article § 2-607(c)(6)(iii)

<sup>4</sup> See Chs. 594 and 595 (2021), Courts and Judicial Proceedings Article § 2-607(e)

<sup>5</sup> All of the offenses excluded from juvenile jurisdiction as listed in Courts and Judicial Proceedings Article § 3-8A-03(d)(1)-(5) are collectively referred to in juvenile delinquency practice vernacular as "direct file" or "automatic adult."

<sup>6</sup> Courts and Judicial Proceedings Article § 3-8A-15(d)(1)-(2)

However, if the intake worker decides not to detain, or utilize any alternatives to detention, that decision may not be reviewed, even if the underlying offense is a felony. This means that the State would be precluded from requesting detention until the matter is forwarded to the State's Attorney's Office for authorization to file a Petition under Courts and Judicial Proceedings Article § 3-8A-10(c)(3), which may take up to 25 days.

As such, the State or any law enforcement officer has no remedy to challenge the decision by a DJS intake worker to not detain. If direct file were eliminated, a DJS intake worker would essentially retain judicial authority to determine detention where the underlying offense is murder, manslaughter, carjacking or a serious assault, which exposes a serious flaw that could impact public safety.

### **C. Waiver**

Proponents of the elimination of direct file often address public safety concerns by asserting that, if all cases begin in juvenile jurisdiction, prosecutors can simply use the process outlined in Courts and Judicial Proceedings § 3-8A-06 to waive the most violent juvenile offenders to adult court. That process, however, contains some alarming deficiencies that hamstring prosecutors.

The recent Court of Appeals' decision in *Davis v. State*, 474 Md. 439, 255 A.3d 56 (2020) dramatically altered the manner in which courts decide transfer motions – and by extension, waiver hearings. Generally, a “transfer” involves moving a case from adult to juvenile court, while a “waiver” involves moving a case from juvenile to adult court.<sup>7</sup> A court must consider five statutory factors in any waiver<sup>8</sup> or transfer<sup>9</sup> decision: (1) the age of the child; (2) the child's physical and mental condition; (3) the child's amenability to treatment in any institution, facility, or programs available to delinquents; (4) the nature of the offense(s); and (5) public safety. To assist in the consideration of these factors, the transfer statute provides for a court-ordered study, usually conducted by DJS, that “concern[s] the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.”<sup>10</sup> Curiously, such a study is not required for waivers. Rather, Maryland Rule 11-113(b) mandates that upon the filing of a waiver, “the court shall order that a waiver investigation be made. The report of the waiver investigation shall include all social records that are to be made available to the court at the waiver hearing.”<sup>11</sup>

There is also a critical difference between transfer and waiver hearings regarding the burden of proof. In transfer hearings, the burden of persuasion lies with the defendant<sup>12</sup> in that the Court must be persuaded by a preponderance of the evidence that “a transfer of jurisdiction is in the interest of the child or society.”<sup>13</sup> In waiver hearings, conversely, the burden of persuasion falls

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<sup>7</sup> At times a transfer hearing is referred to as a “reverse waiver” hearing, although such terminology is colloquial and not legally accurate.

<sup>8</sup> Courts and Judicial Proceedings Article § 3-8A-06(e)

<sup>9</sup> Criminal Proceedings Article § 4-202(d)

<sup>10</sup> Criminal Proceedings Article § 4-202(e)

<sup>11</sup> COMAR 16.16.01.03 directs DJS on the components of any transfer or waiver report, but other than such guidance, there is no other authority.

<sup>12</sup> See *In re Ricky B*, 43 Md. App. 645 (1979)

<sup>13</sup> Criminal Procedure Article § 4-202(b)(3)

on the State<sup>14</sup> to prove by a preponderance of the evidence that “the child is an unfit subject for rehabilitative measures.”<sup>15</sup>

Pragmatically, a court’s waiver or transfer decision typically hinges on the “amenability” factor, and, in fact, the Court of Appeals in *Davis* noted that: “[t]he five considerations are not in competition with one another. They all must be considered but they are necessarily interrelated and, analytically, they all converge on amenability to treatment.”<sup>16</sup> The Court noted, however, that there had been little to no guidance or definition of that factor. To address that issue, the *Davis* Court provided very specific guidelines when considering amenability:

To determine amenability to treatment, the court needs to know what treatment is or will be available to meet the child’s needs and address the child’s problems. Presumably, the State, through DJS or other entities, would have that information as part of a waiver/transfer study, even if it is in the form of options that may depend on further evaluations and the child’s progress. The court needs to determine whether those programs would, in fact, be available to the child, for if not, as to that child, they do not exist. Evidence that there were, in fact, DJS programs that could address petitioner’s needs and problems was presented to the court in considerable detail and was not contradicted. With an eye both toward the welfare of the child and public safety, which, in our view are inter-related, the court needs to make an assessment of whether it is likely that the child would benefit from an available DJS program better than he or she would from anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make the child a more productive law-abiding person. Those are quality assessments that can be based on evidence of how those programs or kinds of programs have worked with other children, from actual data or from reliable studies.<sup>17</sup>

In short, the Court held that, when assessing “amenability,” a lower court must consider the following factors married the factors into an assessment of “amenability” as follows: (1) whether there are there programs available for the specific needs of the defendant; (2) whether the defendant would benefit from the available programs more than what’s available in the adult system; and (3) whether that would reduce the likelihood of recidivism and make the defendant a more productive law-abiding person.

In practice, this edict from the Court of Appeals requires intensive studies of the psychological, physical, and environmental conditions of the subject defendant/respondent. In response to *Davis*, and in recognition of its role in providing the required information to the courts, DJS, enacted a policy that expanded the Transfer/Waiver Summary to include an analysis by an “Assessment Staffing Team” that will include a psychological evaluation of the youth prior to

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<sup>14</sup> See *In re Ricky B*, 43 Md. App. 645 (1979)

<sup>15</sup> Courts and Judicial Proceedings Article 3-8A-06(d)(1)

<sup>16</sup> *Davis v. State*, 255 A.3d at 71

<sup>17</sup> *Davis v. State*, 255 A.3d at 71

the transfer/waiver hearing. The goal is for the Team to answer the “what are the specific needs” and the “what’s available” questions.

In transfer hearings, where the defendant carries the burden, such assessments are helpful to defense counsel who have direct access to the defendant and can ensure participation should the expanded report require additional studies by outside experts. Even in waiver cases, where the burden lies with the State, defense counsel may, and in many instances do, employ outside experts.

The problem is that, in a waiver hearing, where the burden is on the State, the DJS report is the only report a prosecutor can use. That report is not by law the same as a transfer report, and a prosecutor cannot compel an independent assessment because the respondent has a Fifth Amendment right against self-incrimination and does not have to cooperate with the State, nor can that lack of cooperation be utilized against them. In theory, a youth may refuse to cooperate with DJS altogether and the same Fifth Amendment rights would apply. Simply put, in waiver hearings, the State is placed at a disadvantage from the beginning, as they are effectively barred from conducting independent evaluations even if a DJS “Assessment Staffing Team” report is generated and the State disagrees with the conclusions generated by such a team.

In a transfer case, the disparities in access are balanced through the respective burdens of the parties, as there is an incentive for a defendant to cooperate with DJS and outside experts in the hopes of meeting the burden necessary to remove the case to juvenile court. There is no such incentive in waiver matters. If waiver is the only mechanism to get juveniles charged with violent crimes, such as murder, rape, carjacking and first-degree assaults with significant injuries, into adult court, the State will be at a monumental disadvantage. It is far more likely that these matters will remain in the juvenile system simply because the State had less available resources to meet its burden. As such, the fundamental fairness principles involved in any advocacy proceeding would be compromised.

#### **D. Department of Juvenile Services Programming**

The court has the authority to direct services for any youth up to the age of 21.<sup>18</sup> In practice, however, the panoply of available community-based services is low and has diminished over time. Anecdotally, it is highly unusual for any youth to be under supervision after turning 18, this is even less likely should a youth commit an offense and is sentenced to adult probation. Further, it is not uncommon for youth to be placed on waiting lists for access to community-based programming.<sup>19</sup> According to DJS, there are only eight programs that the State contracts with to provide community-based services, three of which serve only three jurisdictions or less.

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<sup>18</sup> Courts and Judicial Proceedings Article § 3-8A-07(a)

<sup>19</sup> DJS divides its services into three categories: (1) services provided exclusively in the youth’s home where they reside, which are referred to as “community based in-home,” (2) services provided in a group home or independent living program, which are called “community based residential; and (3) services provided in a staff secure or hardware secure setting which are known as “residential.” Both “community based residential” and “residential” modalities of treatment require a disposition of commitment, specialized court order or other prerequisite such as a certificate of need.

The total capacity of these programs is 793 participants.<sup>20</sup> In FY 2022, the total amount of youth subject to community-based supervision, which includes pre-court, probation and aftercare, including committed aftercare, was approximately 1,517 - two times more than available spots in community-based in-home programs.<sup>21</sup>

With respect to committed programs, pursuant to the annual DJS Department Resource Guide (DRG), the average length of stay for State-operated hardware and staff-secure facilities is 4.5 months. Privately operated in-state<sup>22</sup> and out-of-state staff and hardware-secure facilities have an average length of stay of approximately 5 months.<sup>23</sup> Residential Treatment Centers, which require a certified psychiatric diagnosis for admission, have an average length of stay of approximately 5 months as well.<sup>24</sup> DJS literature says that youth serviced in committed programs receive “behavioral health, somatic health, and educational services.”<sup>25</sup> It is unclear to what extent these services are administered within the short window of the average stay, however, it is hard to imagine that these programs can adequately address the complex behavioral, mental, and emotional needs of children who have committed violent offenses in well under a year. Additionally, committed programs do not provide, or provide very little, workforce development, college prep or trade programming.<sup>26</sup>

In essence, many youth who commit violent crimes have a history of trauma and present with complex needs (as do most adult defendants). The juvenile systems in place to provide services to address those needs have been shrinking for some time. The elimination of direct file has the potential to create a disastrous situation where youth with more complex neuropsychological and emotional needs are funneled into a model that is structured for a short length of stay and does not have any, or very little, programming. Those youth would not be prepared for return to the community and would be at high risk for recidivism.

DJS will almost certainly dispute this assertion and will promise the expansion of some of its programming to respond to the increased number of participants. Unfortunately, DJS’s annual budget for fiscal year 2022 is \$26 million less than its budget a decade ago in 2012.<sup>27</sup> Adjusting

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<sup>20</sup> <https://djs.maryland.gov/Documents/publications/MD-DJS-2022-List-DJS-Contracted-Programs.xlsx> please note that of the eight programs available, there are many regions in the State of Maryland that are either underserved or have no identified contractual programs available. Further, recently enacted Juvenile Justice Reform legislation will undoubtedly increase the number of youth under pre-court supervision as it grants greater authority to the Department to do so.

<sup>21</sup> [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf) at p. 48

<sup>22</sup> Silver Oak Academy located in Carrol County is the only in-state privately operated committed staff secure facility.

<sup>23</sup> [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2022.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2022.pdf) at p. 185

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*, at p. 179

<sup>26</sup> DJS offers only one example of such workforce development-the Green Ridge Youth Center (Meadow Mountain Youth Center was closed on June 30, 2020) located in Garrett County. The workforce development program at Green Ridge Youth Center is administered through a partnership with Garrett College. *Id.*, at p. 6. Interestingly, the Garrett College website indicates that HVAC, construction, and restaurant ready courses take 3-5 months to complete, and require a high school diploma or equivalent as a pre-requisite. See, <https://www.garrettcollege.edu/cewd-workforce-programs.php> It is unclear how many certificates of completion have been awarded to youth at the Green Ridge Youth Center.

<sup>27</sup> <https://msa.maryland.gov/msa/mdmanual/19dij/html/dijb.html>

for inflation, DJS's budget has been reduced by \$86 million dollars over the last ten years and the appetite to provide adequate funding to build robust, long-term working facilities and programming has waned.

A possible solution to the dearth of substantial juvenile programming would be the immediate expansion of the Patuxent Youthful Offender Program. This program was legislatively established in 1994<sup>28</sup> and offers therapeutic services administered by a team of psychologists, social workers, and psychiatrists in a longer-term setting.<sup>29</sup> Treatment primarily occurs in the context of therapy groups, but every offender does not participate in the same curriculum and there are individualized programs based on a formal assessment of history and needs. These groups are cognitive-behavioral in orientation and typically take six to seven years to complete.<sup>30</sup> Barriers in the Patuxent program involve a lengthy admission process, which includes initial time in general population, funding and limited bed space. If these barriers were removed and sufficient funding were provided, there may be a real opportunity for meaningful services that also balance public safety interests. In any event, it is absolutely worth exploring.

## **II. Conclusion**

It is completely understandable that the movement of youth away from the adult system has garnered nationwide attention and momentum in this State. The work of the JJRC is not without merit and, candidly, there are youth who have experienced unfair and traumatic experiences, just as there have been victims of juvenile crime who have not been afforded adequate justice due to the current state of affairs. That said, the juvenile system in place, which involve multifarious statutes, case law, and rules, is not in any way ready to absorb a complete repeal of automatic adult jurisdiction without substantial changes to statutory procedure and service provision. Public safety would be affected, and some perpetrators of extremely violent crimes would emerge with little to no sense of accountability for their actions or tools to assist in becoming responsible and productive members of society. Further, there is a real-time reduction of adequate services for juveniles generally and, more alarming, for youth with significant needs. What services remain are administered in shorter and shorter intervals.

Before any contemplation of a complete repeal of automatic adult jurisdiction, there needs to be a significant investment in the types of resources that would provide long-term trauma-informed therapeutic services with meaningful outcomes coupled with substantial workforce, college, and trade programming.<sup>31</sup> This investment should include the expansion of the Patuxent program. Additionally, there should remain systems in place to move highly violent youth fluidly among juvenile and adult jurisdictions as well as alterations to Courts and Judicial Proceedings § 3-8A-10, 3-8A-15 and 3-8A-06 to address concerns as outlined above.

For these reasons, the MSAA requests an unfavorable report on SB 93.

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<sup>28</sup> Correctional Services Article § 4-401

<sup>29</sup> <https://dpscs.maryland.gov/rehabservs/patx/patx.shtml#C1>

<sup>30</sup> *Id.*

<sup>31</sup> Curiously, in the entirety of the 45-page JJRC final report, a sole paragraph is devoted to programming review. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf> at p. 24

**SB93\_Testimony\_UNF.pdf**

Uploaded by: Haven Shoemaker

Position: UNF





## **SB93 JUVENILE COURT – JURISDICTION**

**DATE: FEBRUARY 2023**

**POSITION: UNFAVORABLE**

**The Maryland State's Attorney's Association (MSAA) opposes SB93.**

### **I. Introduction**

Juvenile jurisdiction involves multiple statutes, rules, and administrative procedures and is more complex and interrelated than commonly understood. The collateral consequences of eliminating automatic adult jurisdiction involve the disruption of many of these facets that will certainly create unintended (or perhaps intended) effects. These effects will compromise certain aspects of public safety and ultimately expose some weaknesses in the juvenile justice system. Below are just a few potential issues arising from such a complete repeal.

#### **A. Arrest Warrants**

Obtaining a juvenile arrest warrant is cumbersome for law enforcement. Like most procedures, each jurisdiction has some variances in actual practice, but the essential methodology is governed by statute. Pursuant to Courts and Judicial Proceedings Article § 3-8A-14.1(a), for an arrest warrant to be issued against a child, a law enforcement officer must make an application to a Department of Juvenile Services (“DJS”) Intake Worker. That worker then has up to 25 days to conduct an inquiry under Courts and Judicial Proceedings Article § 3-8A-10(c) to determine whether “judicial action is in the best interests of the public or the child.” If the allegation is a felony, the worker must forward the application to the State’s Attorney’s Office for the jurisdiction where the alleged delinquent act occurred.<sup>1</sup>

If the intake officer approves the filing of a petition, the intake officer “may” file the application for an arrest warrant with the court. A judge may only issue a warrant if the judge finds (based on the affidavit filed by a law enforcement officer) that there is probable cause to believe that: (1) the suspect child has committed a delinquent act; and (2) unless the suspect child is taken into custody, the child may do one of the following things: leave the jurisdiction of the court, avoid apprehension, cause physical injury or property damage to

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<sup>1</sup> Courts and Judicial Proceedings Article § 3-8A-10(c)(1)-(4)

another, or tamper with, dispose of, or destroy evidence.<sup>2</sup> In practice, all of the above reviews is conducted during business hours.

For juveniles charged as adults, the process is much simpler. Pursuant to Courts and Judicial Proceedings Article, § 2-607, a law enforcement officer must make an application to a District Court Commissioner who may issue an arrest warrant if there is probable cause to believe an individual has committed a qualifying crime, the whereabouts of the defendant are unknown, and the issuance of a warrant is necessary to subject the defendant to the jurisdiction of the court or the defendant poses a danger to another person or to the community.<sup>3</sup> District Court Commissioners are typically available 24 hours and law enforcement officers have unlimited access. Additionally, pursuant to recent legislative action, a Commissioner's authority is not without limits as, upon a finding of good cause, a judge may recall an arrest warrant issued by a District Court Commissioner.<sup>4</sup>

The main issue with the juvenile warrant process is speed. Under the current system, a juvenile suspect who police have probable cause to believe has committed a direct file<sup>5</sup> offense, which are very serious and might involve a victim, may be apprehended quickly, so long as a law enforcement officer satisfies the requirements for commissioner-based warrants. Arrest warrants are typically disseminated rapidly throughout a law enforcement network so that all officers are apprised and can act swiftly to prevent any additional harm to the community or another victim.

If the direct file is eliminated, law enforcement will have to rely on the juvenile warrant process, which involves multiple levels of review that take time to accomplish. For juveniles accused of violent crimes such as murder, rape, or armed carjacking, waiting for the review process and warrant to be completed risks public safety and could result in another person being harmed.

## **B. Detention**

Pursuant to Courts and Judicial Proceedings Article § 3-8A-15, a DJS intake officer has the discretion to determine whether a youth may be detained from the point at which that youth is taken into custody. If the intake worker determines that the youth be detained or subject to an alternative to detention, such as community detention, electronic monitoring, or shelter care, that decision must be reviewed by a judge the next business day.<sup>6</sup>

However, if the intake worker decides not to detain, or utilize any alternatives to detention, that decision may not be reviewed, even if the underlying offense is a felony. This means that the State would be precluded from requesting detention until the matter is forwarded to the State's Attorney's Office for authorization to file a Petition under Courts and Judicial Proceedings Article § 3-8A-10(c)(3), which may take up to 25 days.

As such, the State or any law enforcement officer has no remedy to challenge the decision by a DJS intake worker to not detain. If the direct file were eliminated, a DJS intake worker would essentially retain judicial

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<sup>2</sup> Courts and Judicial Proceedings Article § 3-8A-14.1 (b)

<sup>3</sup> Courts and Judicial Proceedings Article § 2-607(c)(6)(iii)

<sup>4</sup> See Chs. 594 and 595 (2021), Courts and Judicial Proceedings Article § 2-607(e)

<sup>5</sup> All the offenses excluded from juvenile jurisdiction as listed in Courts and Judicial Proceedings Article § 3-8A-03(d)(1)-(5) are collectively referred to in juvenile delinquency practice vernacular as "direct file" or "automatic adult."

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authority to determine detention where the underlying offense is murder, manslaughter, carjacking, or a serious assault, which exposes a serious flaw that could impact public safety.

### C. Waiver

Proponents of the elimination of direct file often address public safety concerns by asserting that, if all cases begin in juvenile jurisdiction, prosecutors can simply use the process outlined in Courts and Judicial Proceedings § 3-8A-06 to waive the most violent juvenile offenders to adult court. That process, however, contains some alarming deficiencies that hamstring prosecutors.

The recent Court of Appeals' decision in *Davis v. State*, 474 Md. 439, 255 A.3d 56 (2020) dramatically altered how courts decide transfer motions – and by extension, waiver hearings. Generally, a “transfer” involves moving a case from adult to juvenile court, while a “waiver” involves moving a case from juvenile to adult court.<sup>7</sup> A court must consider five statutory factors in any waiver<sup>8</sup> or transfer<sup>9</sup> decision: (1) the age of the child; (2) the child's physical and mental condition; (3) the child's amenability to treatment in any institution, facility, or programs available to delinquents; (4) the nature of the offense(s); and (5) public safety. To assist in the consideration of these factors, the transfer statute provides for a court-ordered study, usually conducted by DJS, that “concern[s] the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.”<sup>10</sup> Curiously, such a study is not required for waivers. Rather, Maryland Rule 11-113(b) mandates that upon the filing of a waiver, “the court shall order that a waiver investigation be made. The report of the waiver investigation shall include all social records that are to be made available to the court at the waiver hearing.”<sup>11</sup>

There is also a critical difference between transfer and waiver hearings regarding the burden of proof. In transfer hearings, the burden of persuasion lies with the defendant<sup>12</sup> in that the Court must be persuaded by a preponderance of the evidence that “a transfer of jurisdiction is in the interest of the child or society.”<sup>13</sup> In waiver hearings, conversely, the burden of persuasion falls on the State<sup>14</sup> to prove by a preponderance of the evidence that “the child is an unfit subject for rehabilitative measures.”<sup>15</sup>

Pragmatically, a court's waiver or transfer decision typically hinges on the “amenability” factor, and the Court of Appeals in *Davis* noted that: “[t]he five considerations are not in competition with one another. They all must be considered but they are necessarily interrelated and, analytically, they all converge on amenability to treatment.”<sup>16</sup> The Court noted, however, that there had been little to no guidance or definition of that factor. To address that issue, the *Davis* Court provided very specific guidelines when considering amenability:

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<sup>7</sup> At times a transfer hearing is referred to as a “reverse waiver” hearing, although such terminology is colloquial and not legally accurate.

<sup>8</sup> Courts and Judicial Proceedings Article § 3-8A-06(e)

<sup>9</sup> Criminal Proceedings Article § 4-202(d)

<sup>10</sup> Criminal Proceedings Article § 4-202(e)

<sup>11</sup> COMAR 16.16.01.03 directs DJS on the components of any transfer or waiver report, but other than such guidance, there is no other authority.

<sup>12</sup> See *In re Ricky B*, 43 Md. App. 645 (1979)

<sup>13</sup> Criminal Procedure Article § 4-202(b)(3)

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<sup>15</sup> Courts and Judicial Proceedings Article 3-8A-06(d)(1)

<sup>16</sup> *Davis v. State*, 255 A.3d at 71

through DJS or other entities, would have that information as part of a waiver/transfer study, even if it is in the form of options that may depend on further evaluations and the child's progress. The court needs to determine whether those programs would be available to the child, for if not, as to that child, they do not exist. Evidence that there were DJS programs that could address the petitioner's needs and problems was presented to the court in considerable detail and was not contradicted. With an eye both toward the welfare of the child and public safety, which, in our view are inter-related, the court needs to assess whether it is likely that the child would benefit from an available DJS program better than he or she would from anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make the child a more productive law-abiding person. Those are quality assessments that can be based on evidence of how those programs or kinds of programs have worked with other children, from actual data or reliable studies.<sup>17</sup>

In short, the Court held that, when assessing "amenability," a lower court must consider the following factors married the factors into an assessment of "amenability" as follows: (1) whether there are there programs available for the specific needs of the defendant; (2) whether the defendant would benefit from the available programs more than what's available in the adult system; and (3) whether that would reduce the likelihood of recidivism and make the defendant a more productive law-abiding person.

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In transfer hearings, where the defendant carries the burden, such assessments are helpful to defense counsel who have direct access to the defendant and can ensure participation should the expanded report require additional studies by outside experts. Even in waiver cases, where the burden lies with the State, defense counsel may, and in many instances do, employ outside experts.

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In a transfer case, the disparities in access are balanced through the respective burdens of the parties, as there is an incentive for a defendant to cooperate with DJS and outside experts in the hopes of meeting the burden necessary to remove the case from juvenile court. There is no such incentive in waiver matters. If the waiver is the only mechanism to get juveniles charged with violent crimes, such as murder, rape, carjacking, and first-degree assaults with significant injuries, into adult court, the State will be at a monumental disadvantage. It is

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<sup>17</sup> *Davis v. State*, 255 A.3d at 71

far more likely that these matters will remain in the juvenile system simply because the State had fewer available resources to meet its burden. As such, the fundamental fairness principles involved in any advocacy proceeding would be compromised.

#### **D. Department of Juvenile Services Programming**

The court has the authority to direct services for any youth up to the age of 21.<sup>18</sup> In practice, however, the panoply of available community-based services is low and has diminished over time. Anecdotally, it is highly unusual for any youth to be under supervision after turning 18. Further, it is not uncommon for youth to be placed on waiting lists for access to community-based programming.<sup>19</sup> According to DJS, there are only eight programs that the State contracts with to provide community-based services, three of which serve only three jurisdictions or less. The total capacity of these programs is 612 participants.<sup>20</sup> In FY 2020, the total amount of youth on probation or in aftercare, including committed aftercare, was approximately 2,435, four times more than available spots in community-based in-home programs.<sup>21</sup>

Concerning committed programs, pursuant to the annual DJS Department Resource Guide (DRG), the average length of stay for State-operated hardware and staff-secure facilities is 4.8 months. Privately operated in-state<sup>22</sup> and out-of-state staff and hardware-secure facilities have an average length of stay of approximately 8.2 months.<sup>23</sup> Residential Treatment Centers, which require a certified psychiatric diagnosis for admission, have an average length of stay of approximately 7.1 months.<sup>24</sup> DJS literature says that youth serviced in committed programs receive “behavioral health, somatic health, and educational services.”<sup>25</sup> It is unclear to what extent these services are administered within the short window of the average stay, however, it is hard to imagine that these programs can adequately address the complex behavioral, mental, and emotional needs of children who have committed violent offenses in well under a year. Additionally, committed programs do not provide, or provide very little, workforce development, college prep, or trade programming.<sup>26</sup>

In essence, many youths who commit violent crimes have a history of trauma and present with complex needs (as do most adult defendants). The juvenile systems in place to provide services to address those needs have been shrinking for some time. The elimination of direct file has the potential to create a disastrous situation where youth with more complex neuropsychological and emotional needs are funneled into a model that is

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<sup>18</sup> Courts and Judicial Proceedings Article § 3-8A-07(a)

<sup>19</sup> DJS divides its services into three categories: (1) services provided exclusively in the youth’s home where they reside, which are referred to as “community based in-home,” (2) services provided in a group home or independent living program, which are called “community based residential; and (3) services provided in a staff secure or hardware secure setting which are known as “residential.” Both “community based residential” and “residential” modalities of treatment require a disposition of commitment, specialized court order or other prerequisite such as a certificate of need.

<sup>20</sup> <https://djs.maryland.gov/Pages/Publications.aspx> please note that of the eight programs available, Mentor Maryland indicates it has 0 capacity.

<sup>21</sup> [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2020.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf) at p. 42

<sup>22</sup> Silver Oak Academy located in Carrol County is the only in-state privately operated committed staff secure facility.

<sup>23</sup> <https://djs.maryland.gov/Documents/DRG/Committed-Programs.pdf> at p. 9

<sup>24</sup> *Id.*, at p. 9

<sup>25</sup> *Id.*, at p. 4

<sup>26</sup> DJS offers only one example of such workforce development-the Green Ridge Youth Center (Meadow Mountain Youth Center was closed on June 30, 2020) located in Garrett County. The workforce development program at Green Ridge Youth Center is administered through a partnership with Garrett College. *Id.*, at p. 6. Interestingly, the Garrett College website indicates that HVAC, construction, and restaurant ready courses take 3-5 months to complete, and require a high school diploma or equivalent as a pre-requisite. See, <https://www.garrettcollege.edu/cewd-workforce-programs.php> It is unclear how many certificates of completion have been awarded to youth at the Green Ridge Youth Center.

structured for a short length of stay and does not have any, or very little, programming. Those youth would not be prepared to return to the community and would be at high risk for recidivism.

DJS will almost certainly dispute this assertion and will promise the expansion of some of its programming to respond to the increased number of participants. Unfortunately, DJS's annual budget for the fiscal year 2022 is \$26 million less than its budget a decade ago in 2012.<sup>27</sup> Adjusting for inflation, DJS's budget has been reduced by 86 million dollars over the last ten years and the appetite to provide adequate funding to build robust, long-term working facilities and programming has waned.

A possible solution to the dearth of substantial juvenile programming would be the immediate expansion of the Patuxent Youthful Offender Program. This program was legislatively established in 1994<sup>28</sup> and offers therapeutic services administered by a team of psychologists, social workers, and psychiatrists in a longer-term setting.<sup>29</sup> Treatment primarily occurs in the context of therapy groups, but every offender does not participate in the same curriculum and there are individualized programs based on a formal assessment of history and needs. These groups are cognitive-behavioral in orientation and typically take six to seven years to complete.<sup>30</sup> Barriers to the Patuxent program involve a lengthy admission process, which includes initial time in general population, funding, and limited bed space. If these barriers were removed and sufficient funding was provided, there may be a real opportunity for meaningful services that also balance public safety interests. In any event, it is worth exploring.

## **II. Conclusion**

Understandably, the movement of youth away from the adult system has garnered nationwide attention and momentum in this State. The work of the JJRC is not without merit and, candidly, there is youth who have experienced unfair and traumatic experiences, just as there have been victims of juvenile crime who have not been afforded adequate justice due to the current situation. That said, the juvenile system in place, which involve multifarious statutes, case law, and rules, is not in any way ready to absorb a complete repeal of automatic adult jurisdiction without substantial changes to statutory procedure and service provision. Public safety would be affected, and some perpetrators of extremely violent crimes would emerge with little to no sense of accountability for their actions or tools to assist in becoming responsible and productive members of society. Further, there is a real-time reduction of adequate services for juveniles generally and, more alarming, for youth with significant needs. What services remain are administered in shorter and shorter intervals.

Before any contemplation of a complete repeal of automatic adult jurisdiction, there needs to be a significant investment in the types of resources that would provide long-term trauma-informed therapeutic services with meaningful outcomes coupled with the substantial workforce, college, and trade programming.<sup>31</sup> This investment should include the expansion of the Patuxent program. Additionally, there should remain systems in place to move highly violent youth fluidly among juvenile and adult jurisdictions as well as alterations to Courts and Judicial Proceedings § 3-8A-10, 3-8A-15, and 3-8A-06 to address concerns as outlined above.

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<sup>27</sup> <https://msa.maryland.gov/msa/mdmanual/19djj/html/djib.html>

<sup>28</sup> Correctional Services Article § 4-401

<sup>29</sup> <https://dpscs.maryland.gov/rehabservs/patx/patx.shtml#C1>

<sup>30</sup> *Id.*

<sup>31</sup> Curiously, in the entirety of the 45-page JJRC final report, a sole paragraph is devoted to programming review. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf> at p. 24



# **SB 93 - Juvenile Court - Jurisdiction.pdf**

Uploaded by: Scott Shellenberger

Position: UNF



**Bill Number: SB 93**  
**Scott D. Shellenberger, State's Attorney for Baltimore County**  
**Opposed**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN OPPOSITION TO SENATE BILL 93**  
**JUVENILE COURT – JURISDICTION**

I write in opposition to Senate Bill 93 that would start all serious criminal cases committed by juveniles in Juvenile Court and require the State to waive the juvenile case to adult court. This is a dangerous and misplaced change in Maryland law. Let me tell you about a few of the defendant's whose cases would have started in juvenile court if Senate Bill 93 was law.

On February 2, 2008 Nicholas Browning, who was 15 years old, shot his father in the head, shot his mother in the head and killed his two younger brothers. All four died. Browning was 6'2" tall, 200lbs. with an IQ of 125 and was a honor student. Browning wore gloves and had a spare magazine on him. This was a cold, calculated and planned murder.

Also in 2008, Lewin Powell, who was 16 years old, beat his mother to death with a baseball bat. When his father arrived home, he tried to beat him to death. Powell was a student at McDonogh and beat his mother to death because she kept asking about his failing school grades.

All four of the defendants charged in the death of Officer Amy Caprio were juveniles. The four juveniles stole a car and were in the Perry Hall area of Baltimore County breaking into houses. Their method was for three to break into homes and one to man the getaway car. The one who was in the driver's seat was Dawnta Harris when he was confronted by Officer Amy Caprio. Harris purposefully drove over Officer Caprio killing her. Do those Defendant's really deserve to start their cases in the Juvenile Court? The Circuit Court denied the juveniles who requested a waiver back to Juvenile Court. The driver, Dawnta Harris, who killed Officer Caprio was 16 years old when he committed his crime. He ran over Officer Caprio in cold blood. Officer Caprio confronted Harris when he was behind the wheel. He pretended to open the car door but then gunned the car running over her. He was convicted of Felony Murder and received a Life Sentence. Harris had a juvenile record of stealing cars. While awaiting trial in jail, he was cited for graffiti, pornography, and cussing at guards. His co-defendants were breaking into houses and each were convicted of Felony Murder and received 30 years in prison. All of their cases deserved to start in adult court.

In 1999 Felix Fitzgerald was an inmate at the Charles Hickey School and the victim was the school nurse. Keep in mind this crime happened in the place Defendant's will be housed if you change the law. Obviously since Fitzgerald was at the Hickey School he was still a juvenile. For some reason, the nurse's station was in the building with either the cafeteria or gym and was virtually deserted when those facilities

were not being used. On the date of the incident, the Defendant jumped over the dutch door into the nurse's station that was a room not much bigger than a closet. He was wearing a t-shirt over his face. He grabbed the nurse from behind, strangled her and anally raped her. No one could hear her pleas for help. Although the victim was a nurse, she was so traumatized by this incident that she could no longer work in that capacity and eventually moved out of State. The Defendant received a 40 year sentence for First Degree Sex Offense. Do we want him to start in a juvenile facility? That is in fact where he committed his crime. Where do you hold him while waiting for his waiver hearing, back at Hickey to reoffend?

Benjamin Garris was, convicted of First-Degree Murder committed at the age of 16. On October 8, 1995 the Baltimore County Police Department were called to the Sheppard Pratt Hospital for a suspicious condition. At a small cottage on the hospital property they found a small fire that had been ignited with a liquid accelerant. Throughout the cottage they found liquid chemicals that led to a propane tank on the second floor whose valve had been opened with gas leaking out. Found in the cottage was the body of Sharon Edwards, age 28, and the mother of 7 year old, who was working her first overnight shift. Ms. Edwards was a care provider at the cottage which provided residency to five male juveniles. Ms. Edwards was slashed and stabbed 26 times by Garris.

At the time of this incident it was home to three juvenile males. When the police arrived two of the juveniles were present and Benjamin Garris had fled. Found in Garris' room was documentation about setting fires and documents on how to kill people. Thankfully the fire had not consumed the building which would have taken two more lives.

Garris confessed to the murder telling police that when Ms. Edwards pled for her life he responded "You're dead. That's right and now you're nothing but a piece of meat."

During the murder he mimicked the ultra-violent actions from his favorite movie *A Clockwork Orange*.

Let's not forget other counties other than mine:

Montgomery County:

Lee Boyd Malvo – the sniper who killed 6 people.

Anne Arundel County:

Anthony Switzer, 16 years old, when he randomly gunned down an 18 year old in a car.

Terry Cooks shot a male nurse at close range while he jogged in a park near his home.

David Raszewski lured a 7 year old girl from a playground and kidnapped and raped her. He is serving 50 years.

Vincent Burner in 2012, when he was 17 years old, was with a group of teens robbing people when he killed a man in a pizza shop. He also took part in another killing that killed a man at a 7 11.

Dorchester County:

Otha Wongus and Diontre Stantos, 17 at the time they raped and murdered a 33 year old waitress. She was strangled, beaten, stomped on and finally stabbed until she died.

Harford County

Andrew Zaragoza was 16 years old when he beat his mother to death with a hammer and stabbed her seven times.

In 2019 Jaylin Brown was 16 when he shot and killed a 19 year old in the back.

Howard County

Monti Fleming at the age of 15 shot and killed the victim by shooting him in the back.

In 2018 Melvin Jacome was 15 when he planned a robbery and fatally shot a 14 year old victim.

Bernard Miller was 17 when he dragged Pamela Basu to death.

In 2021 as a result of Senate Bill 494 that you passed all of these Defendants got a chance to have their sentence modified or re-examined by the current courts. My Office had to contact dozens of families from decades ago to inform them what was going on. Wasn't that enough of a "break" for those juveniles.

I have examples of dozens of other heinous crimes committed by juveniles from all over the State whose cases would start in Juvenile Court. With their cases starting in Juvenile Court they will likely reside in a juvenile facility for a year or more while a waiver hearing that requires a waiver summary can be prepared. Maryland has a good statutory scheme and it should stay in place.

I urge an unfavorable report.

# **Final - MD YES Act Testimony - Logan Seacrest.pdf**

Uploaded by: Logan Seacrest

Position: INFO



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Testimony from:

Logan Seacrest, Resident Fellow, Criminal Justice and Civil Liberties, R Street Institute

**Testimony on the Youth Equity and Safety Act, YES Act, SB93**

February 16, 2023

Maryland Senate Judicial Proceedings Committee

Chairman Smith and members of the committee,

My name is Logan Seacrest, and I am a fellow in the Criminal Justice and Civil Liberties program at the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. This is why SB93, the Youth Equity and Safety Act, or “YES Act,” is of special interest to us.

Maryland remains one of the few states that continues to charge kids as young as 14 automatically as adults. Maryland should join the many other states that have ended this outdated practice. This simple change has the potential to enhance public safety, mitigate youth recidivism and reduce the needless waste of justice system resources.

Each year, Maryland sends more young people to adult court than any other state, except for Alabama.<sup>1</sup> Most of these cases never result in an adult criminal conviction. Between 2017 and 2019, 87 percent of juvenile cases charged in adult court ended up being either transferred back to juvenile court or dismissed.<sup>2</sup> In other words, most of the young people automatically sent to adult court in Maryland have no business being there in the first place. The YES Act promotes limited, effective government by reducing the need for these pointless transfer hearings, during which most youth are sent back to juvenile court anyway.

Importantly, the YES Act does not prevent youth from being prosecuted as adults. It only requires that all children have their cases originate in juvenile court. Under the new law, prosecutors can still elevate



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a case to adult court based on careful consideration of evidence, rather than starting there by default. In this way, the YES Act gives prosecutors and judges more discretion over serious cases, not less.

Maryland's current system of automatically charging youth as adults sets youth on a lifelong path of justice system involvement. Kids prosecuted as adults have higher rates of recidivism and are more likely to commit violent crimes later in life compared to those kept in the juvenile system.<sup>3</sup> Research indicates that overly punitive treatment as a juvenile severs social ties and postpones educational milestones critical to future success.<sup>4</sup> Furthermore, adult lock-ups are a physically dangerous environment, with even brief detentions resulting in physical abuse, sexual assault and suicide.<sup>5</sup>

Juveniles charged with serious offenses, including felonies, need to be held accountable. But, accountability need not come at the expense of recognizing the inherent differences between children and adults. Kids deserve a juvenile justice system informed by data and evidence, rather than by ideology or politics. That is why it is critical that Maryland stop automatically charging juveniles as adults, a change that will end an extravagant misuse of government resources and bring the state in alignment with national best practices and the latest scientific evidence on juvenile justice.

Thank you for your time,

Logan Seacrest  
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Criminal Justice and Civil Liberties  
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<sup>1</sup> Marcy Mistrett, "National Trends in Charging Children as Adults," The Sentencing Project, July 20, 2021. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>.

<sup>2</sup> "Juveniles Charged as Adults Data," Maryland Governor's Office of Crime Prevention, Youth, and Victim Services, last accessed Feb. 14, 2023. [http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Juveniles\\_Charged\\_as\\_Adults\\_Data.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Juveniles_Charged_as_Adults_Data.pdf).

<sup>3</sup> Nicole Scialabba, "Should Juveniles Be Charged as Adults in the Criminal Justice System?," American Bar Association, Oct. 3, 2016. <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2016/should-juveniles-be-charged-as-adults>; David Myers, "The Recidivism of Violent Youths in



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<sup>4</sup> Richard Mendel, “Why Youth Incarceration Fails: An Updated Review of the Evidence,” The Sentencing Project, Dec. 8, 2022. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence>.

<sup>5</sup> Richard A. Mendel, “Maltreatment of Youth in U.S. Juvenile Corrections Facilities: An Update,” The Annie E. Casey Foundation, 2015. <https://assets.aecf.org/m/resourcedoc/aecf-maltreatmentyouthuscorrections-2015.pdf>.