

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.¹ 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

¹ 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.² 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.³ 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].”⁴ 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.⁵ 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.⁶ 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.

² 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/

³ 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).

⁴ *Id.*

⁵ *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>

⁶ 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>