

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.¹ 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.² The adult system also lacks general educational programming, special education services, and appropriate physical and mental health care for youth.³ 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.⁴

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

¹ 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.

² 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; 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>.

³ Campaign for Youth Justice, "Jailing Juveniles," 4-7.

⁴ "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.

and impulse control is generally not fully developed until the early to mid-twenties.⁵ 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.⁶ 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.⁷ 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.⁸ 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 year⁹ and only Alabama transfers youth to adult court at a higher rate than Maryland does.¹⁰

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,¹¹ 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

⁵ 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.

⁶ 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).

⁷ 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>.

⁸ 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.

⁹ White, "Supporters of Juvenile Justice Reform."

¹⁰ 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).

¹¹ DLS, Supplemental Report, 12.