



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

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

**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>