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Testimony from:
Logan Seacrest, Resident Fellow, Criminal Justice and Civil Liberties, R Street Institute

Testimony on HB698

March 2, 2023

Maryland House Judiciary Committee

Chairman Clippinger 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 HB698 is of special interest to us.

Decreasing the age of criminal responsibility from 13 to 11 with HB698—so soon after raising it—takes Maryland in the wrong direction.

One year ago, the R Street Institute submitted testimony describing how young children are not equipped to understand either the consequences of their actions or the legal process that will decide their fate.¹ By raising the age in 2022, Maryland joined 26 other states in establishing that children have lower levels of culpability and higher prospects for rehabilitation than adults. Most children under 13 do not meet the competency standard established by the U.S. Supreme Court because they lack the cognitive capacity to participate in their own defense.² Yet if HB698 were to become law, 11- and 12-year-old children would be presumed to understand the justice system well enough to stand trial.

Keeping the age of criminal responsibility at 13 also promotes the goal of limited, effective government by reducing waste in the juvenile justice system. Before the 2022 reforms, 90 percent of preteen delinquency cases in Maryland were dismissed.³ Charging thousands of children with minor infractions—only to inevitably drop the charges later—is an extravagant and costly government overreach. Lowering the age to 11 via HB698 will lead to more of these unnecessary and ultimately fruitless charges.

Maintaining the age of criminal responsibility at 13 aligns Maryland with the latest neuroscience and juvenile justice research. We now know the human brain does not finish maturing until age 25, after which people usually grow out of delinquent behavior.⁴ Furthermore, justice system involvement severs



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social ties and postpones educational milestones critical to future success.⁵ A 2022 report found that even short periods of juvenile detention resulted in a 31 percent decrease in high school graduation rates and a 25 percent increase in the likelihood of being arrested as an adult.⁶

Investing in youth instead of arresting them ultimately creates a safer and more just society for everyone. Keeping Maryland law as is will ensure that young children continue to receive the rehabilitative care they need and preserve a policy that reduces government waste. Now is the time to maintain Maryland's forward momentum on juvenile justice policy, not take a step back.

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¹ "Testimony from Maya Szilak, Resident Fellow, Criminal Justice and Civil Liberties, R Street Institute in SUPPORT of SB 691," Maryland Senate Judicial Proceedings Committee, March 3, 2022.

https://mgaleg.maryland.gov/cmt_e_testimony/2022/jpr/1717JM75CHPGrN4ppihQezAJzJXwqiUB4.pdf.

² "Age Boundaries in the Juvenile Justice System," National Governor's Association, Aug. 12, 2021.

<https://www.nga.org/center/publications/age-boundaries-in-juvenile-justice-systems>; *Dusky v. United States*, 362 U.S. 402 (1960). <https://supreme.justia.com/cases/federal/us/362/402>.

³ "Maryland Juvenile Justice Reform Council Final Report," Maryland Department of Juvenile Services, January 2021. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

⁴ Mariam Arain et al., "Maturation of the adolescent brain," *Neuropsychiatric Disease and Treatment* 9 (April 3, 2013), pp. 449-461. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648>.

⁵ 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>; "NJN Policy Platform: Raise the Minimum Age for Trying Children in Juvenile Court," National Juvenile Justice Network, December 2020. https://www.njjn.org/uploads/digital-library/updated%20March%2021%20NJN%20Policy%20Platform_RaiseTheMinimumAge.pdf.

⁶ E. Jason Baron et al., "Pretrial Juvenile Detention," *National Bureau of Economic Research Working Paper* No. 29861, March 2022. https://www.nber.org/system/files/working_papers/w29861/w29861.pdf.