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POSITION ON PROPOSED LEGISLATION

BILL: SB 0195 Juveniles - Arrest by Law Enforcement - Report to Local Department of Social Services

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 02/12/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 0195.

The Office of the Public Defender's Parental Defense Division (PDD) represents parents who have been alleged to have abused or neglected their children. These cases are referred to as Child in Need of Assistance (CINA) cases. The attorneys in the PDD represent a large majority of the CINA cases that come before the court. Our attorneys witness firsthand how involvement with Social Services is harmful to families and particularly to children who are at risk for juvenile legal system involvement. We therefore oppose SB0195.

SB0195 would require law enforcement to refer children to the Department of Social Services for a neglect investigation if a child is arrested on a gun offense or arrested a second time for any offense. Social services and the Child in Need of Assistance process is not an effective tool for addressing the needs of children who are involved in the juvenile legal system. Quite the opposite, children who are removed from their homes and placed in foster care are more likely than their peers to become involved in the juvenile and criminal legal system.

The child welfare system, often referred to as the family policing system, is designed to monitor and regulate parents whose children are alleged to have been harmed or placed at risk of harm in their care. It is *not* designed to effectively address the needs of children who have complex behavior needs that put them at risk of legal system involvement. When allegations come before the court, the focus is on the behaviors of the parent. Parents are alleged to have committed an act of abuse or

neglect and , if they are not successful in defending against those allegations, they are ordered to complete a myriad of services that may or may not address the needs of the family.

CINA proceedings are not conducive to improving the parent-child relationship in response to child behavioral issues. Parents are required to return to court every six months for a review hearing that can be very contentious. Parents often find themselves in court defending against Department of Social Services' reports written by social workers that highlight their weaknesses and report on their shortcomings rather than objectively report the events of the most recent six months. However, the most egregious part of this process is that parents are often undermined by the court and social workers to the point that their children often believe that they do not have to listen to their parents. Of the many parents that I have represented, all of my clients' report that their children's behavior was harder to manage after their return than before they were removed. Rather than respond to their parent's discipline, children who have been removed were more prone to tell their parent that they didn't have to listen to them and they could call social services.

In the case of children who have presented with behavior issues that put them at high risk of being involved with the legal system, or have already been involved in the legal system, this process does not change. Parents are often blamed for their child's behavior and ordered by the court to complete services even when the parent has reached out to DSS and other agencies for interventions to address their child's behavior. Upon successful completion of services by the parent, the court can return a child to his or her parent even if the child's issues are unresolved.

In these cases, the child may also be ordered to participate in services like therapy and substance use treatment. However, if the child fails to complete services or refuses to participate at all, the court has no ability to enforce its order or require the child to participate. Furthermore, when it comes to children whose behaviors are delinquent, their behavior generally escalates once in care. These children, if removed from their homes, often move from foster home to foster home due to their behaviors. As such these children experience frequent disruptions in their education and treatment services as they often must start over when they move.

Requiring children to be referred to social services will exacerbate the issue of youth crime and increase racial disparities. Black children are disproportionately represented in the juvenile legal system as well as the foster care system. While this bill only requires a referral for investigation, Black children are more likely to be removed or separated from their families than their white

counterparts once investigated. In Maryland, while Black children make up only 30.6% of the population, they are 54% of the foster care population.¹ Additionally, children in foster care are 244% more likely to become criminal system involved than children who are not in foster care.² Many children, especially Black children with complex and intensive behavioral needs are often caught up in what is known as the foster care to prison pipeline.³

In order to address the problem of children having guns and/ or participating in criminal activity we have to support parents and not demonize, villainize or undermine them. A much better solution than the child welfare system is to refer children and their families to Local Care Teams. Local Care Teams are interagency councils made up of all the state agencies that work with children (i.e. DSS, DJS, MDSE, MDH, DDA, DORS etc.). The focus of the Local Care Teams is to provide services to the family that help the parent and child deal with the intensive behavioral needs of the child. This agency is not punitive. It has a case manager that services the family and most important it allows for various stakeholders to give input on what the child needs in order to prevent out of home placement and ensure the child's needs are getting met. Another solution is to empower parents by funding and providing community resources that can assist them with addressing the needs of their children. Recreation programs, childcare services, mentors, education advocacy, mental health, family therapy and substance use treatment are all services that would allow parents to provide for the needs of their children and appropriately address their children's needs while enhancing public safety. Finally, ensuring that parents and children have access to programs and assisting in removing barriers that may impede their ability to participate is vital.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 0195.

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

¹<https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

² [Goetz, S. From Removal to Incarceration: How the Modern Child Welfare System and its Unintended Consequences Catalyzed the Foster Care- to-Prison Pipeline; 20 U.Md. L.J. Race, Religion and Gender 289 \(2020\)](#)

³ Id. – The Prison to Foster- Care- Pipeline resulted from a study that found that more than half of the children in the study aging out foster care were incarcerated by their mid-twenties. The study found that these children were more likely to offend at earlier ages, spend more time incarcerated and offend at a frequency higher than offenders who had not been in foster care.

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