

**HRFK MD SB 601 TESTIMONY.pdf**

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**TESTIMONY IN SUPPORT OF SB 601 BEFORE  
THE MARYLAND SENATE JUDICIAL PROCEEDINGS  
COMMITTEE**

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*February 22, 2024*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 601. We are grateful to Senator Folden for his leadership in introducing this bill, and we appreciate the Maryland General Assembly's willingness to address this important human rights issue concerning Maryland's children.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymakers' understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research and public education, coalition-building and grassroots mobilization, and policy advocacy and strategic litigation to advance critical human rights on behalf of children in the United States.

We support HB 445 because, if signed into law, the bill will ensure that judges have additional discretion to end the unjust practice of sentencing child victims of sex crimes and human trafficking to lengthy prison terms for crimes they commit against their abusers. Instead of locking exploited and abused children away in cages, these children will be treated the way that child victims deserve – with care, compassion, and humanity.

### **Bill Summary**

The bill provides that if an adult court judge finds by *clear and convincing evidence* that the juvenile defendant committed the crime at issue against someone who sexually abused or trafficked them in the last 3 months, then the judge *may* transfer the child to the juvenile court for a more appropriate sentence.

The purpose of this bill is to give judges more options and greater flexibility when sentencing child sex crime and trafficking victims who have committed crimes against their abusers and traffickers.

### **Sex Abuse & Trafficking**

In the United States, Child Protective Services estimates that 63,000 children are sexually abused each year. In the U.S., 1 in 9 girls and 1 in 53 boys under the age of 18 experience sexual abuse or assault at the hands of an adult, 93% of which are committed by an individual that the child knows. Children who are victims of sexual assault are four times more likely to become addicted to drugs, four times as likely to experience Post-Traumatic Stress Disorder, and three times more likely to experience a major depressive episode.

In 2015, the National Center for Missing and Exploited Children estimated that 1 in 6 endangered runaways are likely child sex trafficking victims and that approximately 100,000 U.S. children are sexually exploited every year. Child victims of sex trafficking are often subjected to physical and sexual abuse by their traffickers and the “johns” or “buyers” that exploit and rape them.

### **Traumatic Bonding and Post-Traumatic Stress Disorder**

The reasons why sexually abused or trafficked children may lash out against their offenders can be understood by examining psychological research. According to psychologist Dr. Michael Welner, abusers often make their victims undergo prolonged stages of grooming: (1) targeting the victim, (2) gaining the victim’s trust, (3) fulfilling a need, (4) isolating the child, (5) sexualizing the relationship, and (6) maintaining control. According to Welner "...a skillful abuser gets into the child's DNA and becomes a part of the child, and the child can't cast him off regardless of the age."

These grooming tactics lead to traumatic bonding, in which a victim develops a dysfunctional attachment to their abuser. Traumatic bonding is characterized by misplaced loyalty, and is found in situations of exploitative cults, incestuous families, or in hostage or kidnapping situations. Over the years, clinicians have referred to similar abnormal psychological attachments as “Stockholm Syndrome” and in the case of domestic violence, “Battered Person’s Syndrome,” which take place in different abusive situations.

This phenomenon, coupled with the fact that children’s brains are not fully developed, prevent them from understanding the consequences of their actions as it relates to individuals who have committed severe abuse against them. Children cannot control their emotions and impulses and cannot evaluate risks in the same manner as adults. In addition, children who suffer from

repeated and brutal victimization often have no way of understanding that they could be incarcerated for an action that they believe is self-defense against their abuser.

### **Inadequacy of Self-Defense Claims**

While psychological research shows that children who have been victimized have real feelings of danger triggered by their abusers, the law does not always recognize this under the theory of self-defense.

A self-defense claim is usually valid in the law only when the individual feels that “the danger of being killed or suffering serious bodily harm is *imminent*” and the use of force was not “unreasonable and excessive.”

For many child victims of sex abuse or trafficking, they are not always in “imminent danger” under the legal definition when they commit crimes against their abusers. Sometimes these crimes are premeditated on the part of the child victim. Nevertheless, sound public policy should dictate that children who commit crimes against their abusers are provided with treatment and services, not criminal punishment. The child would not have committed a crime if it were not for the abuser having abused or trafficked the child in the first place. Therefore, the law should focus on treatment, not punishment, of the child victim.

### **Conclusion**

Children who commit crimes against their abusers are especially deserving of our support and compassion. They are categorically different than other types of offenders in the criminal legal system. Today we ask that you recognize these children as victims and give judges the flexibility to fashion an outcome that is more just and compassionate. These children deserve better. And we owe it to them to be better.

Child victims deserve our understanding, empathy, and love. They don’t deserve to be demonized and thrown away by the justice system. As you consider this measure, I’d like you to ask yourself what if these children were your own son or daughter? What would you want done in cases like theirs?

Today we ask you to set a new standard and to protect the most vulnerable children in Maryland. We’ve failed these children too many times in their lives. Let’s not fail them again.

**It is for these reasons that we strongly encourage this committee to issue a favorable report on SB 601 to give judges greater flexibility in cases where child victims commit crimes against their abusers. Thank you for your consideration.**

### **Submitted by:**

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Below we've included a small sampling of stories from around the country of children who committed crimes against their abusers and traffickers. We hope their voices and stories illuminate the pressing need for HB 445.



# MARYLAND MATTERS

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## **Opinion: Md. Must Protect Child Trafficking and Sex Crime Victims in the Legal System**

**By Sara Kruzan**

January 26, 2022

*The writer received a life sentence for killing her sex trafficker when she was 16 years old but is now free. This piece was submitted by the Washington, D.C., organization Human Rights for Kids.*

President Biden has declared January as National Human Trafficking Prevention Month. Yet, some of the worst government-sanctioned human rights abuses are committed against child trafficking and sex crime victims right here in the United States.

I was in elementary school and only 11 years old when I met the man who robbed me of my childhood. Coming from a home and community where drugs and abuse were the norm, I was an easy target for a man with sinister intentions. From the time I was 13 years old until I was 16, I was a child sex trafficking victim who endured horrific abuse, rape and torture at the hands of my trafficker. I was eventually able to break free from the manipulative hold he had over me and returned shortly after that and killed him.

Despite being his victim of trafficking, sex abuse and rape, I was tried as an adult where none of the abuse and complex trauma I experienced throughout my childhood was admitted into evidence. The prosecution, the judge and the media depicted me as a sophisticated monster, the worst of the worst and sentenced me as such. The “justice” system sentenced me — a child sex trafficking and rape survivor — to life imprisonment without parole, plus four years, for killing the man who victimized me for nearly a third of my young life.

Injustices like this happen as a result of automatic transfer laws, as well as sentencing schemes that fail to center child status and trauma history when youth are tried as adults.

While I’m grateful that my sentence was commuted in 2013, I still spent nearly 20 years in prison. What happened to me was not justice. What has happened to other child sex trafficking victims like Alexis Martin and Cyntoia Brown, both of whom also received a life sentence for

their involvement in the death of their trafficker and would-be rapist, is not justice. None of us should have been sent to prison in the first place — a far too common response for girls of color in our country — especially for actions taken against our abusers.

Imagine if we were your own daughter; how might you respond to the vile men who exploited and abused us? Is it so difficult to understand then how a 16-year-old girl, who was raped and abused and trafficked from the time she left elementary school, would end up killing the man who harmed her so? What should we do with her? Our answer to this question says a lot more about us than it does about her.

It is curious why a prosecutor would want to seek a life sentence for child sex trafficking victims who kill their rapists or traffickers, given what we know about traumatic bonding and the invisible chains that keep us bound in modern-day slavery. Yet, there has been little outrage for the too many child sex crime victims who are sitting in prison cells or awaiting prosecution for crimes committed against their rapists and traffickers.

The sad reality is that almost every girl who ends up in the juvenile or adult criminal legal system are victims of sexual or physical abuse, rape, human trafficking, domestic violence, or some form of severe trauma. Research has shown that 73% of girls experienced physical or sexual abuse prior to system involvement.

In addition, nearly one-third of girls in the juvenile justice system were sexually abused and nearly half experienced five or more Adverse Childhood Experiences (ACEs). Sexual abuse is one of the most common determining factors of girls becoming involved in the system. This sexual-abuse-to-prison pipeline, as Rights4Girls calls it, highlights a fundamental truth about youth delinquency and crime: unmitigated childhood trauma is the root cause for why children end up in the system to begin with. And yet, our justice system rarely recognizes or understands the impact that trauma has on children.

There is hope, however. The Maryland General Assembly has the opportunity this year to change the way that child victims like me are treated when they commit crimes. Senate Bill 165 by Sen. Jill Carter will end the practice of automatically charging children as adults, which will ensure that a juvenile court judge can properly weigh whether or not a child should be tried as an adult.

In addition, pending legislation by Sen. Susan Lee and Del. Lesley Lopez will require judges to consider child status, trauma history, and how children are different from adult offenders prior to sentencing. Their legislation will also create a presumption that judges should send cases involving child sex crime victims in situations like mine back to juvenile court for adjudication if they're convicted as adults. Such protections are known as Sara's Law, which is an initiative I started with the non-profit organization Human Rights for Kids.

I can think of no better way for the Maryland Legislature to show solidarity and support to child victims everywhere during Human Trafficking Prevention Month than by passing these reforms to ensure that what happened to me doesn't happen to any child in Maryland. Our children deserve care, not cages.

Source: <https://www.marylandmatters.org/2022/01/26/opinion-md-must-protect-child-trafficking-and-sex-crime-victims-in-the-legal-system/>



## **19-year-old Chrystul Kizer faces life in prison for killing accused pedophile who allegedly abused her**

*Chrystul Kizer killed Randall Volar at his home after he allegedly raped her.*

ABC News, by Karma Allen, December 18, 2019

A Wisconsin teenager is facing life in prison after admitting to killing an accused pedophile who allegedly abused her and sold her to other men for sex.

Chrystul Kizer, now 19, admitted to killing 34-year-old Randall Volar at his home last year after she says he raped her, according to her attorneys.

The gruesome incident unfolded in Kenosha, Wisconsin, about 40 miles south of Milwaukee, in June 2018. Kizer allegedly shot Volar twice in the head, set his home on fire and then stole his luxury vehicle, authorities said.



*Chrystul Kizer is pictured during a hearing in the Kenosha County Courthouse, Nov. 15, 2019, in Kenosha, Wisc.*

When confronted by police, Kizer, who was 17 at the time, allegedly confessed to killing him because she was tired of him sexually assaulting her. She also alleged that he sold her to other men for sex, which is why her attorneys say she should be protected under sex trafficking victim laws.

However, prosecutors said the law that protects those who are sex trafficked doesn't apply wholly in this case. They said they do not believe she was engaged in prostitution at the time of the crime and they don't believe her life was in danger at the moment.

Prosecutors also said they have evidence, including communications with Kizer's boyfriend and others, indicating that she plotted and planned the murder ahead of time.



*Chrystul Kizer is pictured during a hearing in the Kenosha County Courthouse, Nov. 15, 2019, in Kenosha, Wisc.*

She apparently even researched how to hide evidence and talked to some of the people around her about what she planned to do, prosecutors said.

Volar had been arrested and released four months before he was killed, court records show. At the time of his death, authorities were investigating Volar on child sex trafficking allegations and her attorneys said Kizer was one of his victims.

Kizer faces multiple felony charges, including first-degree intentional homicide, possession of a firearm and arson, court records show. She is currently being held on \$1 million bail.

The case is slated to go to trial in February. Kizer faces life in prison if convicted as charged.

Source: <https://abcnews.go.com/US/chrystul-kizer-19-faces-life-prison-killing-accused/story?id=67805720>

# The Boy Who Killed His Molester



Published 10/18/2010, Oprah.com

January 22, 2010, started off as a typical Friday for 16-year-old [Daniel Kovarbasich](#). That morning, his father drove his mother to work, dropping off Daniel at the home of close family friend Duane Hurley, who was supposed to take Daniel to school.

Thirty minutes later, Duane was dead. Daniel had stabbed him 55 times.

Immediately after the stabbing, Daniel frantically called his father, Terry. Terry raced to meet Daniel and found him standing on the street, his hands caked in blood. Inside the house, the scene was gruesome. Duane lay lifeless at the top of the stairs with blood splattered across his body, floor and walls.

Daniel claimed that Duane had attacked him, but that wasn't true. The real story would unfold over the next several months, revealing a horrifying secret: Daniel alleged that Duane had been grooming and sexually abusing him for more than three years—and no one had a clue.

Daniel was 12 when 52-year-old Duane Hurley first approached him outside a local elementary school. Daniel was charmed by Duane's dog, and when Duane returned a few days later asking if Daniel would watch the dog for a moment, he agreed. Five minutes later, Daniel says Duane returned and paid him \$30 for his help.

This was the start of the "grooming process," a calculated behavior that helps child molesters gain the trust of potential victims and, oftentimes, victims' families.

Initially, Daniel and his parents, Terry and Donna, were suspicious. "We got the information off the dog tag to go look [Duane] up online to see if he was a sex offender," Daniel says. "We didn't find anything."

So, when Duane began inviting Daniel over to his house to do odd jobs for money, his parents agreed—but they went to Duane's house with their son. "Duane welcomed us into his home and seemed very genuine," Terry says.



For the next year, both Terry and Donna accompanied Daniel on his visits to Duane's home. Over time, they began to treat Duane like part of the family. That's when things allegedly took a very dark turn.

Unbeknownst to the Kovarbasichs, Duane was skillfully grooming Daniel, as well as his parents.

"He'd buy me stuff," Donna says. "I'd say that I'm out of laundry detergent and have to wait until I get paid to get detergent. He would go out and buy detergent and bring it to me. I mean, he was a great guy. Who wouldn't like someone like this?"

Once the family was comfortable with him, Duane moved on to the next stage of the grooming process: lowering Daniel's inhibitions.

"He'd say stuff like, 'How many different ways can you say the word 'penis'?' " Daniel says. "[And] while I'd be using the bathroom, he'd walk by and open the door. He would also pee with the door open."

That's not all Duane did. He also let Daniel—who was too young to get a license—drive his sedan. To get the keys, Daniel says Duane asked him to expose his genitals. Then Daniel says Duane wanted to touch his penis. "After the touching," Daniel says, "I wanted to drive the Corvette. He [said], 'Bigger toys, bigger things.'"



After hearing about his sexual encounters with Duane, Oprah asks Daniel why he kept going back.

"I felt like I had to. Like I couldn't get away from him," Daniel says. "It was like it was my fault. I was the one who showed him my genitals, which started it, and he kept using that against me. ... If I didn't [go over to Duane's house], he'd come find me. If I tell him no, then he was going to say something."

Duane continued to sexually abuse Daniel, even though the teen says he told Duane to stop. Then, the abuse began to escalate.

Two weeks before he murdered Duane, Daniel fell asleep on Duane's couch. "He anally penetrated me that night," Daniel says. "I acted like I didn't know."

That's when Daniel says the rage and hate started to surface.

The last straw for Daniel came just before the murder, around the time he was planning a romantic anniversary celebration with his girlfriend. Duane saw another opportunity to seduce his young victim.

That Friday when Daniel came over to Duane's house before school, the two talked about the upcoming anniversary. "So all this [anniversary] stuff's going to cost...what?" Daniel says Duane asked.





"\$80," Daniel answered.

Then, Daniel says Duane responded. "You know this stuff isn't free, right?"

Daniel says he knew Duane wanted to have sex, and at that moment, he realized that the molestation was not going to stop.

"I just snapped," he says.



After Daniel snapped, he says he walked over to Duane picked up a nearby pickle jar and smashed him in the head. Then, he admits to stabbing Duane 55 times.

"Did you realize you had stabbed him that many times?" Oprah asks. "No," Daniel says. "I had no idea."

A judge found Daniel guilty of voluntary manslaughter and aggravated assault. He was sentenced to five years probation and was ordered to stay in jail until the court finds him a therapy-based treatment facility.

At the sentencing, the judge read a quote from forensic psychologist Dr. Michael Welner: "A skillful groomer, a skillful abuser, gets into the child's DNA and becomes a part of the child, and the child can't cast him off regardless of the age."

Daniel could have spent a minimum of 15 years in prison if convicted of the original charge—murder. There are some people who feel the judge went too easy on the teen, but Daniel feels differently.

"Do you feel that the sentence was fair?" Oprah asks.

"I feel it was fair," Daniel says.



When Daniel finally came forward and accused Duane of molesting him, his parents were devastated.

"I was shocked that someone could get past my radar like that," Terry says. "And I was angry that this person deceived my whole family. He literally just took our innocence away."

"I was very upset," Donna says. "In my head, [Duane] was such a nice person, but he knew what he was doing."

Oprah asks Daniel what he'd say to other abused children who are feeling the same shame, guilt and rage that he felt. "You need to come out and say something, because it's not your fault," Daniel says. "No one is going to blame you. Man up."

Terry also has advice for children. "When anybody is giving you stuff that your parents don't want you to have and you think: 'Hey, this person's cool. He's giving me alcohol. He's letting me drive his car. He's the cool guy. My parents suck,' listen. Something's wrong."

Source: <https://www.oprah.com/oprahshow/the-16-year-old-boy-who-killed-his-molester/all>

# Should 'forced sex slave' get a break in her pimp's death?

Man was killed during robbery 5 years ago

**Posted:** 12:23 PM, May 06, 2018

**Updated:** 12:23 PM, May 06, 2018

**By:** Andrew Welsh-Huggins | Associated Press



COLUMBUS, Ohio -- No one disputes that a 15-year-old Ohio girl involved in the slaying of a man during a robbery five years ago was at one time, in the words of the state's Supreme Court chief justice, "a forced sex slave." What is up for debate before the Ohio Supreme Court is the impact of the girl's prostitution on her role in that killing.

The defendant, Alexis Martin, and her attorney argue that a juvenile judge made a mistake when Martin's history of sex trafficking wasn't adequately explored at a hearing that determined whether the girl should be charged as an adult.

The Associated Press doesn't normally identify victims of sexual assault or juveniles charged with crimes. In this case, Martin has been frequently identified in the media and court documents and doesn't have a problem with being named, her attorney said.

Investigators say Martin and a female friend came up with the robbery plan with two other men. The victims were Martin's pimp and his brother. The girls were having sex with the victims to distract them when the robbers entered a house and the victims were shot, according to court documents. Martin is not accused of firing a gun.



Martin's lawyer, Jennifer Kinsley, says the juvenile court judge should have determined that Martin was covered by a 2012 Ohio law that protects children whose crimes are related to their status as trafficking victims.

Had the judge determined that the so-called Safe Harbor law applied, a court-appointed guardian for the girl could have been named, and that person could have investigated the full extent of the girl's history of prostitution, Kinsley says.

There were plenty of warning signs, including the girl's call to a probation officer when she was 14, saying she'd been kidnapped and taken to Cincinnati and forced to perform exotic dances, Kinsley told justices this year.

The girl "is a crime victim. She was being raped and sold for sex," she said.

Ultimately, the judge determined the girl could not be rehabilitated in the juvenile court system and transferred her to adult court, where she pleaded guilty to murder and other charges. Now 19, she's serving 21 years to life.

Kinsley wants the Supreme Court to order the case back to juvenile court.

The Summit County prosecutor's office is challenging the girl's appeal, saying her activity the day of the robbery is separate from her history as a prostitute.

Neither Martin nor her attorney at the time raised the Safe Harbor law, and Martin's case was properly moved to adult court because of the seriousness of the crime and questions about whether Martin could be properly rehabilitated at the juvenile level, according to Richard Raley, a Summit County assistant prosecutor.

During oral arguments in January, Chief Justice Maureen O'Connor asked Raley to clarify the status of Martin's sexual activity before the crime and the day of.

"She was having sex with one of these men, at the time of the robbery, and that was separate and distinct from her activity of being a forced sex slave?" O'Connor said. Raley said that was the case from the state's perspective.

A court decision isn't expected for weeks.

Several organizations fighting human trafficking have asked the court to side with Martin, including Case Western Reserve University's Human Trafficking Law Clinic; the Ohio State law school's Justice for Children Project; and the Washington, D.C.-based Human Trafficking Pro Bono Legal Center.

Source: <https://www.wcpo.com/news/state/state-ohio/should-forced-sex-slave-get-a-break-in-her-pimps-death>

**MD Catholic Conference\_SB 601\_FAV.pdf**

Uploaded by: Garrett O'Day

Position: FAV



MARYLAND  
CATHOLIC  
CONFERENCE

February 22, 2024

**SB 601**

**Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court**

**Senate Judicial Proceedings Committee**

**Position: FAVORABLE**

The Maryland Catholic Conference offers this testimony in support of Senate Bill 601. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state’s second largest social service provider network, behind only our state government.

The aim of Senate Bill 601 is to mitigate sentencing for human trafficking victims who have been convicted of crimes against their trafficker, ensuring they are *sentenced* in juvenile court. While this bill would be a great first step in mitigating sentences for trafficking victims, often victims of circumstance and in the wrong situation at the wrong time, we submit that a better way to address the underlying issue for which this bill is needed would be to prohibit these victims from being *automatically* charged as adults in the first place. That concept would change the charging circumstances of these youth trafficking victims from a waiver-down to a waiver-up system, allowing victims charged with such crimes to be moved up to the adult system upon judicial determination.

In *Miller*, 567 U.S. at 471, the U.S. Supreme Court noted certain inherent characteristics of youthful offenders, such as “diminished capacity” and “greater prospects for reform”. Precedents such as *Miller* and many others, combined with Catholic social teaching, helps formulate our position that Maryland must take a more restorative approach to youth justice. The circumstances of youth charged with crimes in the instances that are the subject of House Bill 445 warrant even greater emphasis on the aforementioned considerations, as these youth begin their journey as victims in the first instance.

Thus, we urge your support and a favorable report on Senate Bill 601, but suggest the committee consider amendments to Maryland’s automatic charging statute as the focal point of this bill.

**2-22 SB 601 - Minors Convicted as Adults.docx.pdf**

Uploaded by: Isabella Baldwin

Position: FAV



**TESTIMONY TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE**

**SB 601– Minors Convicted as Adults - Sentencing - Transfer to Juvenile Court**

**POSITION: Favorable**

**BY: Linda Kohn, President**

**Date: February 22, 2024**

The League of Women Voters of Maryland expresses strong endorsement for Maryland Senate Bill 601. The League of Women Voters believes this legislation is pivotal in addressing minors being convicted as adults. Its passage will significantly contribute to the welfare and progress of our state.

The League of Women Voters has a long-standing position to juvenile corrections and how the handling of it affects not only children, but all of Maryland. Since 1972 LWVMD has committed to the idea that juveniles deserve individually designed training and treatment programs and local or regional diagnostic services for juvenile offenders, and the use of specialized judges, counseling services and administration of juvenile cases all geared to dealing with families. SB 601 aligns with these principles by allowing individualized sentencing of juveniles, with all the options that are available in Juvenile Court.

The provisions of SB1 reflect a steadfast commitment to addressing persistent systemic inequities. Highlighting the urgency, according to Governor's of Office Crime Prevention, Youth and Victim Services, 396 juveniles were charged as adults in Maryland in 2022, with 91.9% being male and 93.9% between the ages of 16 and 17. Maryland Senate Bill 601 offers an opportunity to address these concerns and enhance an equitable process through our judicial system.

The League of Women Voters of Maryland strongly encourages a favorable report for SBI 601.

# **SB 601\_Final.pdf**

Uploaded by: Karalyn Aanenson

Position: FAV



DEPARTMENT OF  
JUVENILE SERVICES

Aruna Miller  
Lt. Governor

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217 East Redwood Street  
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Vincent Schiraldi  
Secretary

Date: February 22, 2024  
Bill Number/Title: SB601 - Minors Convicted as Adults - Sentencing - Transfer to Juvenile Court  
Committee: Judicial Proceedings  
DJS Position: Support

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**The Department of Juvenile Services (DJS) supports SB 601, which authorizes a court to transfer a youth convicted as an adult to the juvenile court for sentencing if the court determines by clear and convincing evidence the individual against whom the youth is convicted of committing the offense previously committed a sex crime or human trafficking against the youth within three months before the offense for which the minor was convicted.**

This bill expands the opportunities for a court to transfer a youth convicted in adult court to juvenile court at sentencing. Specifically, SB 601, recognizing the significant impact of sexual abuse and/or human trafficking on a youth's development, cognitive functioning, and behavioral health, creates a pathway for a youth convicted as an adult to receive the rehabilitation and treatment services provided by the juvenile justice system.

Current law provides that when a youth is charged as an adult and convicted in the adult court, the court may transfer the child to the juvenile court at sentencing to receive a juvenile disposition under the following circumstances:

- (1) as a result of trial or a plea, all charges that excluded jurisdiction from the juvenile court do not result in a finding of guilty, and
- (2) pretrial transfer of the case was prohibited under specified statutes or the court did not transfer jurisdiction after a reverse waiver hearing.

In making a determination to transfer an eligible youth at sentencing, the court must consider:

- (1) the child's age;
- (2) the mental and physical condition of the child;
- (3) the child's amenability to any available treatment;
- (4) the nature of the child's acts as proven in the trial or admitted to in a plea; and
- (5) public safety.

DJS supports statutory changes that allow justice-involved youth to access the treatment and rehabilitative interventions in the juvenile justice system designed specifically to support positive youth development. DJS also recognizes the overwhelming evidence and research that indicates youth and communities are better served when justice-involved youth are removed from the adult legal system.

For these reasons, DJS requests a favorable report on SB 601.



**HB445- SB601 testimony.pdf**

Uploaded by: Kimberlee Watts

Position: FAV





**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
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**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB HB 445 (crossfiled with SB601)**

**Minors Convicted As Adults- Sentencing- Transfer to Juvenile Court**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: February 6, 2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an favorable report on House Bill 445.

Youth charged within the justice system, and especially youth excluded from juvenile court jurisdiction because they have been charged with serious crimes, are likely to have experienced severe trauma. Children who come into conflict with the law often contend with early childhood trauma and unmitigated adverse childhood experiences such as psychological, physical, or sexual abuse; witnessing domestic violence; living with family members who struggle with substance abuse, suffer from mental illness or are suicidal, or are formerly incarcerated.<sup>1</sup> 90% of children in the juvenile justice system have experienced at least two adverse childhood experiences; 28% of boys and 46% of girls have experienced at least five adverse childhood experiences.<sup>2</sup>

Those experiences, when combined with youth, can cause extreme reactions to threats, whether perceived or real.

“Battered children, unlike those children who are not abused, live in an environment where abuse is commonplace and may occur at anytime with or without warning. Battered children, therefore often appear to be what researchers have termed as ‘hypervigilant.’ Such a hypervigilant child is acutely aware of his or her environment and remains on the alert for any signs of danger, events to which the unabused child may not attend. The child’s history of abusive encounters with his or her battering parent leads him or her to be overly cautious and to perceive danger in subtle changes in the parent’s expressions or mannerisms.”<sup>3</sup>

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<sup>1</sup> *Adverse childhood experiences (ACEs)*, Administration for Children and Families, U.S. Department of Health and Human Services, available at <https://www.childwelfare.gov/topics/preventing/overview/framework/aces/#:%7E:text=ACEs%20include%20all%20types%20of,family%20going%20through%20a%20divorce>

<sup>2</sup> Baglivio, Michael T., et al. *The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders*, OJJDP Journal of Juvenile Justice, Volume 3, Issue 2, (Spring 2014).

<sup>3</sup> Steven R. Hicks, *Admissibility of Expert Testimony on the Psychology of the Battered Child*, 11 Law & Psychol. Rev. 103, 103 (1987).

That “hypervigilance” means that these children may “perceive an imminent threat of immediate danger” where outside observers would not.<sup>4</sup> Behaviors that seem “relatively benign to others” may nonetheless be recognized by the child as “signal[ing] the imminence of . . . [an] assault.”<sup>5</sup> Rather than being a path to safety, reporting the violence to authority figures, such as police officers or teachers, is perceived by a children exposed to trauma and adverse childhood experiences as a path to escalated abuse; child victims of sex trafficking often “do not seek help or resist intervention from law enforcement or social service organizations because they do not know their rights, they feel ashamed, they are reluctant to admit to victimization, or they fear their traffickers.”<sup>6</sup> In combination, those elements — continuing and escalating abuse, the impossibility of escape, and a feeling of desperation and helplessness — “may lead a battered child to strike back against an abuser in self-defense.”<sup>7</sup>

Confining these traumatized youth in adult prisons and jails puts them at a particular risk for harm. Because adolescents are in a formative developmental stage, their social context is likely to shape the trajectory of their future lives. “Prisons have been characterized as developmentally toxic settings for adolescents; they contain none of the attributes of a social environment that are likely to facilitate youthful progress toward completion of the developmental tasks that are important to functioning as law-abiding adults.”<sup>8</sup> Confining youth in prisons with adults can increase their risks for recidivism; youth are not separated from adult offenders in the Division of Corrections and are subject to a “contagion effect” of deviant behavior that can further exacerbate a delinquent mindset.<sup>9</sup>

Youth incarcerated in the adult correctional system are also at particular risk for further trauma. Congress enacted the Prison Rape Elimination Act specifically to address the high incident of sexual occurring in prisons and jails across the country, with particular concern for detained youth who are especially vulnerable to abuse. “Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities – often within the first 48 hours of incarceration.”<sup>10</sup> Youth make up 7.7% of all victims of substantiated acts of sexual violence in prison and jails carried out by other inmates, even though they made up less than 1% of the total detained and incarcerated population.<sup>11</sup> “[M]ost adult jails or prisons are ill-equipped to meet the needs of children or keep them safe. They are **much more likely to commit suicide** in an adult jail than in a juvenile facility. They are also **five times as likely to be sexually abused or raped** as they would be in a juvenile facility. Some of these youth are confined in facilities along with adults, where they may witness as well as be the target of violence.”<sup>12</sup> These risks are exacerbated when youth are “housed in solitary confinement to protect them from adults. . . . Nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement. A 2002 investigation by the U.S. Department of Justice showed

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<sup>4</sup> *State v. Smullen*, 380 Md. 233, 273 (2004).

<sup>5</sup> Hicks, *supra*, at 142.

<sup>6</sup> *Report of the Attorney General’s National Task Force on Children Exposed to Violence* at 188, available at <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

<sup>7</sup> Hicks, *supra*, at 103

<sup>8</sup> *Reforming Juvenile Justice: A Developmental Approach*, Committee on Assessing Juvenile Justice Reform, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, National Academy of Sciences, available at <https://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach>, at 134 (internal citations omitted).

<sup>9</sup> *Id.*

<sup>10</sup> 34 U.S.C. §30301(4)

<sup>11</sup> Nat’l Prison Rape Elimination Comm’n Report at 155-156, available at <https://www.ncjrs.gov/pdffiles1/226680.pdf> at 19.

<sup>12</sup> *Defending Childhood: Protect, Heal, Thrive*, at page 190 (emphasis added) (internal citations omitted).

that juveniles experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation.”<sup>13</sup>

Understanding that youth are at a particularized risk if incarcerated with adults, the report of the Attorney General’s National Task Force on Children Exposed to Violence recommends prosecuting young offenders, especially those who have been exposed to trauma, in the juvenile system instead of transferring their cases to adult courts.

“Too often, these children are labeled as “bad,” “delinquent,” “troublemakers,” or “lacking in character and positive motivation.” Many commit violent acts and enter the criminal justice system. However, enormous strides have been made in developing effective ways of interrupting the cycle of violence ... **We should stop treating juvenile offenders as if they were adults, prosecuting them as adults in adult courts, incarcerating them as adults and sentencing them to harsh punishments that ignore their capacity to grow.** When properly screened, assessed, and provided with trauma-informed care and evidence-based trauma specific treatment, children who have been exposed to violence and are in trouble with the law have the capacity to grow, mature and become productive citizens.”<sup>14</sup>

The federal directive is even clearer when youth have been subjected to sexual trauma: “Help, do not punish, child victims of sex trafficking.”<sup>15</sup>

Research has shown that youth, even when charged with very serious crimes, are receptive to rehabilitative services. “[M]ost violent juvenile offenders could be successfully rehabilitated through intensive treatment in small secure juvenile facilities.”<sup>16</sup> Youth have lower recidivism rates when offered treatment within the youth justice system instead of the punitive approach of the adult correctional system: “Although supporters of the punitive reforms of the 1990s argued that getting tough on juvenile offenders was necessary to protect the public, developmental knowledge indicates that punishing juveniles as adults is not likely to reduce recidivism and is likely to increase the social cost of juvenile crime.”<sup>17</sup>

The National Academy of Sciences, after two years studying the youth justice system and its response to adolescent brain development research, published a Report on Reforming Juvenile Justice. That Report is clear in its directive that youth should be treated different than adults:

“[i]t does not follow, however, that the mechanisms of accountability for juveniles should mimic criminal punishments. Condemnation, control, and lengthy confinement (“serving time”), the identifying attributes of criminal punishment, are not necessary features of accountability for juveniles. The research demonstrates that, if designed and implemented in a developmentally informed way, procedures specifically designed for holding adolescents accountable for their offending can promote positive legal socialization, reinforce a prosocial identity and facilitate compliance with the law. However, unduly harsh interventions and negative interaction between youth and justice system officials can

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 124 (emphasis added)

<sup>15</sup> *Id.* at 23

<sup>16</sup> Fagan, Jeffrey, et al. “*System Processing of Violent Juvenile Offenders: An Empirical Assessment*,” In Robert A. Mathias, Paul DeMuro, and Richard S. Allinson (eds.) *Juvenile Offenders – An Anthology*. San Francisco: National Council on Crime and Delinquency (1984) pages 117-136

<sup>17</sup> *Reforming Juvenile Justice: A Developmental Approach*, at 134.

undermine respect for the law and legal authority and reinforce a deviant identity and social disaffection.”<sup>18</sup>

The Report goes on to inform that, “[b]oth proportionality and prevention support a policy of retaining youth in the juvenile justice system; adult prosecution and punishment should be uncommon.”<sup>19</sup>

SB 769 acknowledges that youth, especially those exposed to trauma, should be offered treatment and rehabilitation instead of punishment and incarceration. Understanding that long-term results for youth who commit even serious crimes are best achieved in the youth justice system, this bill would achieve the research-driven goals of rehabilitating instead of punishing trauma-exposed youth.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an favorable report on House Bill 445.**

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

**Authored by: Kimber Watts, Assistant Public Defenders, [kimber.watts@maryland.gov](mailto:kimber.watts@maryland.gov),**

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<sup>18</sup> *Reforming Juvenile Justice: A Developmental Approach* at 4-5.

<sup>19</sup> *Id.* at 134

**2024 SB0601 Testimony Amending 2024-02-22.pdf**

Uploaded by: Alan Lang

Position: FWA

## Testimony For SB0601, with Amendments

Please vote for SB0601, with amendments.

It took me numerous attempts to understand what the passage in section 6-235 (B)(1) meant (page 2, lines 1-8).

I support this bill if the passage means that if minors are convicted as an adult for a crime they committed against a person who sexually assaulted them or subjected them to human trafficking, their case may be transferred to juvenile court for sentencing.

However, I do not understand the 3-month time limit.

I would like to see the time limit removed, or at least extended to 1 year, especially if the crime committed was done in the act of escaping from the criminal who had subjected the minors to these heinous acts.

Alan Lang  
242 Armstrong Lane  
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410-336-9745  
[Alanlang1@verizon.net](mailto:Alanlang1@verizon.net)

(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT THE INDIVIDUAL AGAINST WHOM THE MINOR IS CONVICTED OF COMMITTING THE OFFENSE PREVIOUSLY COMMITTED A SEX CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE OR HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11 OF THE CRIMINAL LAW ARTICLE AGAINST THE MINOR WITHIN 3 MONTHS BEFORE THE OFFENSE FOR WHICH THE MINOR WAS CONVICTED, THE COURT MAY TRANSFER THE MINOR TO THE JUVENILE COURT FOR SENTENCING.

**sb601.pdf**

Uploaded by: Linda Miller

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 601  
Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court  
**DATE:** January 31, 2024  
(2/22)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 601. This bill would amend Criminal Procedure § 6–235, addressing the sentencing of a minor who is convicted as an adult.

The Judiciary recognizes the appropriateness of transferring certain criminal cases involving a minor to the juvenile court for sentencing. The Judiciary is concerned, however, that this bill is in conflict with current law. Criminal Procedure § 4-202.2 addresses the transfer of a case of a juvenile tried as an adult to the juvenile court for sentencing. It is unclear how that statute and this bill would be read and applied together as these two statutes are in direct contradiction. For consistency and clarification, the Judiciary suggests using the language contained in CP § 4-202.2(e)(1): “If the court transfers its jurisdiction to the juvenile court, the court shall conduct a disposition under the regular procedures of the juvenile court.”

In addition, it is unclear how the court would determine by clear and convincing evidence that the individual committed a sex crime against the convicted minor within the specified period and whether a separate hearing would be required. The Judiciary also notes that the bill would require the court to “make a juvenile disposition” if a minor is transferred to juvenile court.

Third, the Judiciary notes that the timeline proposed by the bill, limiting its application to instances in which the victim of the act for which the minor has been convicted committed a sex offense against the minor within the previous 90 days, significantly limits its utility.

Finally, existing law already provides a vehicle for taking this circumstance into account; if the court found that the victim had perpetrated a sex offense against the defendant, that could be a mitigating factor for the court to consider at sentencing.



cc. Hon. William Folden  
Judicial Council  
Legislative Committee  
Kelley O'Connor

# Juvenile sentencing - senate - 2024 - SB601 UNF.pd

Uploaded by: Lisae C Jordan

Position: UNF



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**Working to end sexual violence in Maryland**

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For more information contact:  
Lisae C. Jordan, Esquire  
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**Testimony Opposing Senate Bill 601**  
**Lisae C. Jordan, Executive Director & Counsel**  
February 22, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge an unfavorable report on Senate Bill 601.

**Senate Bill 601 – Minor Victims of Sex Crimes Who Harm Their Assailants**

This bill would permit a court to transfer a case out of adult court and into juvenile court for sentencing of minor if the victim-witness in the minor-defendant's case committed a sex crime or human trafficking crime against the minor-defendant within the 3 months before the minor-defendant committed the offense.

MCASA appreciates that this bill has good intent and values the desire to assist survivors, and oppose the bill only with great reluctance. However, we respectfully suggest that the language of this bill would not create sound policy.

**After a guilty verdict is the wrong time to address the needs of the survivor.**

A jury or judge should consider whether a defendant was a victim of a sex crime or trafficking at the hands of the alleged victim as a part of the determination of guilt. Maryland's law on duress is badly out of date and should be amended to permit introduction of this evidence. This would update the law and help incorporate the experiences of survivors of sexual assault into our justice system.

Moreover, this important information about whether defendants are themselves minor victims should be considered as part of the decision about whether to try the case in juvenile or adult court in the first place. Criminal trials are themselves very difficult and traumatic for victims. Good policy would avoid placing minor victims in adult court when they have committed against their assailants.

Finally, the bill presents several technical and scope concerns. The 3 month timeline proposed by SB601 does not recognize the needs of victims of trauma. Survivors frequently delay reporting, reacting to, and processing what has happened to them. The courts should have the discretion to evaluate whether a defendant's victimization is relevant without an arbitrary 3 month deadline. Similarly, MCASA questions whether minor victims of other crimes might also benefit from additional support in our law. Finally, MCASA respectfully suggests that minors who are victims of §3-602, sexual abuse of a minor, or of §3-709, sextortion, be added to those who would benefit from the law if the Committee chooses to move forward on the bill.

MCASA does not support vigilante actions, however, the experiences of young people who are victims of sex crimes are not sufficiently taken into account in the current justice system. We fully support efforts to address this, but cannot endorse the language of SB601.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to report unfavorably on Senate Bill 601**