

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 445
Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court
DATE: January 31, 2024
(2/8)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 445. 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. Karen Simpson
Judicial Council
Legislative Committee
Kelley O'Connor