

Bill Number: SB 323

Scott D. Shellenberger, State's Attorney for Baltimore County

Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 323
JUVENILE COURT - JURISDICTION

I write in opposition to Senate Bill 323 that will start many crimes committed by juveniles in Juvenile Court instead of adult court as has been the Law for many years in Maryland.

The list of crimes are violent crimes or dangerous crimes and to start them all in Juvenile Court would pose a public safety risk. In addition, the Department of Juvenile Services (DJS) will need additional resources because every State's Attorney will likely try to "waive up the juvenile" to adult court which will require DJS to do more waiver/transfer summaries.

In addition, with the shortened time limitations that must be adhered to both DJS and State's Attorney's Office will need additional staff to handle the work load.

Let me outline a few of the cases that had this Bill been in effect when these Defendants committed their crimes, they would have all started in Juvenile Court.

Baltimore County – Nicholas Browning

On February 2, 2008 Nicholas Browning snuck into his home, put a gun to the back of his father's head and executed him while he slept on the couch. He then went upstairs where he proceeded to execute his mother, brother Gregory age 14, and brother Benjamin age 11.

At the time he committed these murders he was 15 years old. He was also 6'2", 200 pounds, with an I.Q. of 125.

Before he left the home after the murders, he staged the scene to look like a burglary. He opened his mother's jewelry cabinet and scattered its contents across the floor. He disconnected the Xbox and Wii video games and placed them on the pool table.

Browning then returned to a friend's home where he was at a sleepover. The next day he played video games and went to the mall with his friends while calling his parent's home leaving messages expressing his love for his family.

He confessed to the murders. He admitted that he had a long-standing plan to kill his family. He murdered them all because he wanted his family's money.

Should he be treated as a juvenile?

The killer who is the size of a man, with high intellect is one of the most manipulative, conniving, dangerous people I have come across in recent years. Do we want this Defendant in a juvenile facility for a year while the waiver summary is being done?

He pled guilty to four murders. Received two life sentences. He is serving his sentence in North Branch, Maryland, one of the most secure correctional facilities we have in the State. During the six month wait to waive him up to adult court, where is he housed - The Hickey School. This is not a secure facility like the Baltimore County Detention Center.

Nicholas Browning did not deserve to be treated as a juvenile for the State to hope to waive him up to adult court. He would be too dangerous.

Speaking of the Hickey School, now let me tell you about another Defendant who would have been effected by SB 323.

Baltimore County – Felix Fitzgerald

In 1999 Fitzgerald was an inmate at the Charles Hickey School and the victim was the school nurse. Keep in mind this crime happened in the place that the Defendants' will be housed if you change the law. Obviously since Fitzgerald was at the Hickey School he was still a juvenile. For some reason, the nurse's station was in the building with either the cafeteria or gym and was virtually deserted when those facilities were not being used.

On the date of the incident, the Defendant jumped over the dutch door into the nurse's station that was a room not much bigger than a closet. He was wearing a t-shirt over his face. He grabbed the nurse from behind, strangled her and anally raped her. No one could hear her pleas for help. Although the victim was a nurse, she was so traumatized by this incident that she could no longer work in that capacity and eventually moved out of State. The Defendant received a forty year sentence for First Degree Sex Offense. Do we want him treated as a juvenile? That is how he was being treated when he committed his crime.

Where is he to be housed pending the waiver hearing? At the Hickey School where he committed his crime?

Baltimore County – Ty'aris Washington

Ty'aris Washington, 16, and his 14 year old co-defendant in 2016 when the crimes were committed. On November 16, five males walked towards three victims, including a 6 year old. One male who had a black bandana covering the lower part of his face, had a handgun in his hand and stated, "Give me your shit." One of the males pushed a victim to the ground and took her phone. Another male slapped another victim

in the face with an open hand multiple times and grabbed her purse off her body, she resisted, but the assailant continued to take the purse, breaking one of her fingers in the process. Yet another male took the purse of the third victim. They then got back in the car and fled.

Approximately fifteen minutes later a witness observed three or four male suspects throwing a car seat and other items out of a vehicle. The items were later determined to belong to one of the victims. The witness stopped and asked what they were doing and the Defendant ran on foot to the parking lot of a 7-Eleven across the street where he observed them drop purses. Those purses were later identified as belonging to two of the victims.

Approximately thirty minutes later officers were dispatched for a hit and run involving a silver Chrysler Town and Country with extensive damage matching the description of the vehicle involved in the robbery. Investigation would reveal a tampered ignition and that the vehicle was reported stolen two days earlier in Baltimore City. A witness heard the crash and looked outside, observing suspicious subjects and called 911 telling them the suspects were headed north. While following their path of flight a red leather wallet and a BOA check were found belonging to the victims.

Within a minute of the hit and run, officers were dispatched to an armed carjacking just up the street. Another victim advised he was approaching his Volkswagen Jetta when he observed a group of approximately five males walking down the street. He was about to unlock his car when he was surrounded by the males. One of the individuals pulled a gun out and pointed it at the victim's head demanding his keys, cell phone and wallet. After handing over his keys and cell phone the victim grabbed the gun and pushed it over his head and then the two began to struggle. During the struggle another individual put a sharp pointed object in his ribs. The suspects then fled the area stopping briefly to dump the contents of the victim's vehicle on the side of the road. Ty'aris Washington was one of the Defendant's. He does not belong in juvenile court for his participation in this crime spree.

The 14 year old juvenile would not be able to be charged as an adult with Robbery taken out by SB 323. This would be a juvenile case.

Baltimore County – Destiny Fields

When she was 15 years old, she and a younger juvenile named Joy Jones, planned to attack a group home worker. They beat her with a fire extinguisher, dragged her down the basement stairs, barricaded the door with chairs and other furniture so she couldn't escape, then stole her car keys and took the victim's car for a joyride. This Defendant crashed the car then called her dad bragging about it. Originally sentenced to twenty years suspend all but five years on Robbery with a Deadly Weapon, ten years consecutive all suspended, on False Imprisonment. She had several Violation of Probation's and it was successfully argued for all the back-up time at her last Violation of Probation hearing. The Defendant was also convicted in Baltimore City of driving a stolen car with a handgun under the seat.

Does she belong in Juvenile Court?

Howard County – Monti Fleming

In 2006, at the age of 15, the Defendant was convicted of First Degree Murder. He and the victim had a verbal argument. The victim walked away. While he was walking away the Defendant shot at him striking him in the back and killing him. The Judge described his actions as brutal and barbaric. He was sentenced to fifty years in prison.

The Defendant was also convicted of two additional cases. The Defendant was convicted of armed robbery where he robbed and pistol whipped the victim. He was also convicted of Attempted First Degree Murder. The Defendant accused the victim of speaking to the police about drug dealing in the area. The victim went home. The Defendant went to the victim's home and asked him to come outside. The victim did. When the victim went outside the Defendant started shooting at him. The victim was shot in the leg.

Does he belong in Juvenile Court?

Howard County – Melvin Jacome

In October of 2018, the Defendant, age 15, planned to rob an individual during a marijuana transaction. The Defendant came to the robbery with a semi-automatic Keltec handgun loaded with hollow-point bullets and affixed with a green laser pointer. When the robbery fell apart the two groups separated. The Defendant got back into his vehicle and opened fire. He fatally struck the 14 year old victim.

Are these the kind of Defendants you want in Juvenile Court? Six juveniles who committed adult crimes. I am sure there are many more. Should they really start as juveniles?

Over the last several years the Legislature and Rules Committee has done a great deal to protect the rights of juveniles. In 2009 and updated in 2015, the Legislature passed Criminal Procedure 10-105(a)(7) and 10-106. This expungement procedure allows for the immediate expungement of an adult criminal record once a case has been waived back to juvenile court. There is no need to wait until the juvenile case is completed or juvenile probation is done.

The Legislature also changed Criminal Procedure 4-202. This statute establishes a presumption that juveniles charged as adults will be housed in a juvenile facility unless there is no space, the juvenile is released or the State proves and a judge finds on the record that such a transfer is not in the interest of public safety. Another change that was not available before.

In cases where juveniles are charged as adults and residing in an adult facility the State's Attorney's Office must act quickly.

Criminal Procedure 4-202.1 requires a preliminary hearing date on these juveniles to be set within fifteen days. The adult time period is thirty days. This is one half the time required in adult cases. This means an attorney will screen these cases quickly and if it is determined the case should proceed, then they will take the case to a Grand Jury or preliminary hearing. This assures that another independent body finds probable cause to proceed with the case. Yet another protection put in place for the juvenile.

The time periods in these cases will prevent a complete investigation if everything must move so quickly. The Department of Juvenile Services will not be able to handle this additional workload. Public safety must be paramount. This is a Bill that endangers public safety.

There is no reason to change the statutory scheme that was put in place decades ago to handle violent juveniles. When you review the crimes committed by the above Defendants all of these crimes are very adult crimes and the criminals should be treated as adults.

I urge an unfavorable report of SB 323.