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## POSITION ON PROPOSED LEGISLATION

**BILL: Senate Bill 0323 Youth Charging Reform Act**

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

**POSITION: Favorable**

**DATE: 2/4/2026**

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The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on SB0323.

### **Introduction**

Senate Bill 0323 changes the jurisdiction in which charges are filed against a child for certain offenses from criminal court (adult court) to juvenile court. In other words, where a case with a serious offense *starts*- in which jurisdiction the child is charged- not in which jurisdiction the case will be tried or where the child may be sentenced. Charging children in adult court is an inefficient and costly process which has a disproportionate impact on children of color from marginalized and impoverished communities, and which is detrimental to public safety in the long run. The Maryland Office of the Public Defender has consistently favored ending the automatic charging of all of Maryland's children as if they were adults. While this bill does not end the practice in its entirety, it represents a positive step for Maryland's children, saves the state considerable costs, promotes public safety, and represents areas of compromise that some opponents have previously found acceptable. For these reasons we urge a Favorable report on SB0323.

### **Current Law Regarding Charging Children as Adults**

Currently, the law defines adults as individuals over the age of 18 and children as individuals under the age of 18.<sup>1</sup> In general, adults are charged in district or circuit court (adult court), whereas children are charged in juvenile court. In Maryland, however, there are thirty-three (33) enumerated charges that are excluded from juvenile court jurisdiction for 16 and 17 year olds, and two

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<sup>1</sup> MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-01.

exclusionary charges for 14 and 15 year olds. This means that those cases are automatically charged in district and circuit court, as if the children were adults, without any judicial oversight.

Misdemeanor firearm possession was the most common charge in FY 2025 that resulted in automatic adult court jurisdiction for children<sup>2</sup>. Due to the large amount of charges that automatically give the adult court jurisdiction over children, it's estimated that Maryland sends more children to adult court per capita than any other state besides Alabama<sup>3</sup>. In FY20, Maryland sent more children to adult court than Arizona, Massachusetts, California, and Pennsylvania combined. Those states have nearly 10 times Maryland's population. In addition, Maryland and Louisiana are the only two states in which 6% or more of the prison population had been there since childhood and where at least 80% of that population was Black. More than 1,100 people have been in Maryland prisons since childhood, costing the state annually more than \$50 million dollars.<sup>4</sup>

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<sup>2</sup> *Juveniles Charged as Adults*, MD. DEPT. PUBL. SAFETY & CORR. SERVS. (June 30, 2025), <https://app.powerbigov.us/view?r=eyJrIjoibNTZmYzZIN2MtNjcyNC00OGRjLTkwYjktYTZzNGVmNzc0M2UzIiwidCI6IjYwYWZlOWUyLTQ5Y2QtNDliMS04ODUsLTlTY0ZGYwMjc2YTJlOCl9>.

<sup>3</sup> Marcy Mistrett, *National Trends in Charging Children as Adults*, SENT'G PROJECT (July 20, 2021), <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Sentencing-Project-National-Trends-in-Charging-Children.pdf>.

<sup>4</sup> HUM. RTS. FOR KIDS, CRIMES AGAINST HUMANITY: THE MASS INCARCERATION OF CHILDREN IN THE UNITED STATES (2023), <https://humanrightsforkids.org/a-crime-against-humanity/>.

<b>AUTOMATIC ADULT JURISDICTION</b> Source: § 3-8A-03 of the Maryland Courts & Judicial Proceedings Article		
<b>AGE 14 AND OLDER</b>	<b>AGE 16 AND OLDER</b>	
<ul style="list-style-type: none"> <li>• Murder – 1<sup>ST</sup> Degree</li> <li>• Rape – 1<sup>ST</sup> Degree</li> <li>• Any attempts of above</li> <li>• Any conspiracies of above</li> </ul>	<b>Serious/Violent Offenses:</b> <ul style="list-style-type: none"> <li>• Kidnapping</li> <li>• Assault – 1<sup>ST</sup> Degree (CL, §3-202)</li> <li>• Carjacking &amp; Armed Carjacking (CL, § 3-405)</li> <li>• Murder – 2<sup>nd</sup> Degree <ul style="list-style-type: none"> <li>• Attempted Murder –2<sup>nd</sup> Degree (CL, §2-206)</li> </ul> </li> <li>• Voluntary Manslaughter</li> <li>• Rape – 2<sup>nd</sup> Degree <ul style="list-style-type: none"> <li>• Attempted Rape – 2<sup>nd</sup> Degree (CL, §3-310)</li> </ul> </li> <li>• Robbery w/ Dangerous Weapon <ul style="list-style-type: none"> <li>• Attempted Robbery w/ Dangerous Weapon (CL, §3-403)</li> </ul> </li> <li>• Sex Offense-- 3<sup>rd</sup> (CL, 3-307(a)(1)) (IE force, a weapon, or threat of force used)</li> </ul>	<b>Firearms Offenses:</b> <ul style="list-style-type: none"> <li>• Wear, Carry, Transport Handgun (CL, §4-203)</li> <li>• Possession of Unregistered Short-barreled Shotgun or Short-barreled Rifle (PS, §5-203(a))</li> <li>• Possession of Regulated Firearm (PS, §5-133--convicted of prior disqualifying offense, etc.)</li> <li>• Minor in Possession of Regulated Firearm (PS, § 5-133(d)(1))</li> <li>• Use Wear, Carry, Transport Firearm during Drug Trafficking Crime (CL, §5-621)</li> <li>• Use of Firearm in Commission of Crime of Violence or Felony (CL, §4-204)</li> <li>• Possess, Own, Carry, Transport Firearm by Drug Felon (CL, §5-622)</li> <li>• Possess, Sell, Transfer Stolen Regulated Firearm (PS, §5-138)</li> <li>• Sell, Rent, Transfer Regulated Firearm (PS, §5-134(b))</li> <li>• Sell, Rent, Transfer Regulated Firearm to Minor (PS, §5-134(d))</li> <li>• Use or Possess Machine Gun in commission/attempted commission of Crime of Violence (CL, §4-404)</li> <li>• Use or Possess Machine Gun for Offensive or Aggressive Purpose (CL, §4-405)</li> </ul> <b>Miscellaneous:</b> <ul style="list-style-type: none"> <li>• Any felony <b>IE</b> prior felony conviction as an adult</li> <li>• Non-incarcerable Traffic &amp; Boating Offenses</li> <li>• Domestic Violence Peace Order requests are heard in the adult court where the victim is: the current or former spouse of the respondent; a cohabitant of the respondent; a person related to the respondent by blood, marriage or adoption; a parent, stepparent, child, or stepchild of the respondent or victim who resides or resided with the respondent or victim for at least 90 days within 1 year before the filing of the petition; a vulnerable adult; or an individual who has a child in common with the respondent. CP, §3-8A-03(d)(6). The juvenile court retains jurisdiction over violations of this section by a juvenile.</li> </ul>
<b>Automatic Adult Jurisdiction – When Transfer to Juvenile Court is Prohibited (CP, §4-202(c))</b>		
<ul style="list-style-type: none"> <li>• In an unrelated case, Juvenile was <b>convicted</b> of any of the above offenses (excluding “non-incarcerable traffic &amp; boating” and excluding if adult jurisdiction is created only by a prior, non-excluded felony offense).</li> <li>• Offense is 1<sup>st</sup> degree murder and the juvenile was 16 or 17 years of age when the alleged crime was committed</li> </ul>		

## The Transfer Process

Most cases where children are charged as adults can be (and are) transferred from adult court to juvenile court; the only exception to this is 16 and 17 year olds charged with First Degree Murder.<sup>5</sup> When children are automatically charged as adults, directly following arrest they are taken to an adult jail to be booked. Typically, the child remains detained in the adult facility overnight and has a bail hearing the following day in front of a district court judge. That judge will decide if the child will continue to be held in an adult jail, is eligible for detention in a secure juvenile facility, or may be released on house arrest or other conditions determined by the judge. In the adult court system, charges are often initiated in district court, where the case remains for a maximum of 15 days, until either a probable cause hearing is held before a district court judge or the State’s Attorney files an indictment in circuit court. Once the case is moved up to circuit court, the child’s attorney then files a motion to transfer jurisdiction to the juvenile court. A transfer hearing, where the child has the burden of proving to a circuit court judge that they are amenable to treatment in the juvenile system, is subsequently scheduled for as early as 60 days out.

<sup>5</sup> MD. CODE ANN., CRIM. PROC. § 4-202.

In anticipation of a transfer hearing, the Department of Juvenile Service (DJS) utilizes a Multidisciplinary Assessment Staffing Team (MAST) which includes a psychiatric evaluation, a psychological evaluation, a psychosocial evaluation, and information regarding appropriate services for the child in the juvenile system, which is provided to the court. In addition, it is common practice for the child's counsel to hire an expert to evaluate the child and prepare a report for the transfer hearing. Preparing for these transfer hearings, therefore, often require a number of months - on average 125 days<sup>6</sup>. A transfer hearing may be contested, or proceed by agreement between the parties. It is not unusual for the State and Defense to come to an agreement in which the child agrees to enter into a plea in juvenile court, (and often to be sent to an out of home DJS placement) in exchange for an agreement to transfer. Regardless if there is an agreement or not, the court is required to consider five factors in any transfer decision: (1) the age of the child; (2) the child's physical and mental condition; (3) the child's amenability to treatment in any institution, facility, or programs available to delinquents; (4) the nature of the offense(s); and (5) public safety.<sup>7</sup> The most important factor is amenability to treatment. Once the judge grants or denies the motion to transfer, the child proceeds to either a trial or an adjudication, in the respective jurisdiction. If the child's case is transferred down to juvenile court, and they are detained, the adjudication then must occur within 30 days.<sup>8</sup>

In addition to automatically charging children as adults for 33 offenses, in Maryland, there is another legal process that can give district and circuit court jurisdiction over children: waiver of jurisdiction. For children at least 15 years old, the State's Attorney may file a motion to waive jurisdiction from the juvenile court to adult court. Similarly to a transfer hearing, with waiver, there is a hearing in which a judge decides which jurisdiction the case will be tried in. In a waiver hearing it is the State's burden to prove that a child is unfit for juvenile rehabilitative measures.<sup>9</sup> While this bill would require that certain cases start in juvenile court, it would *not* eliminate the waiver of jurisdiction process. Whenever they deem appropriate, the State's Attorney would still have the

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<sup>6</sup> Governor's Office of Crime Prevention and Policy. (2024). Youth charged as adults: The costs to Maryland's justice system and communities. <https://gocpp.maryland.gov/wp-content/uploads/Youth-Charged-as-Adults-Costs.pdf>

<sup>7</sup> CTS. & JUD. PROC. § 3-8A-06(e); CRIM. PROC. § 4-202(d).

<sup>8</sup> In the juvenile justice briefing, Delegate Cardin inquired if the cases move faster if there is a transfer hearing proceeding the adjudication. Because the law already requires that an adjudication be heard within 30 days once the case gets to juvenile court, the prior transfer process does not make a significant difference in the speed in which the case is adjudicated.

<sup>9</sup> CTS. & JUD. PROC. § 3-8A-06(d).

ability to file a motion to waive juvenile jurisdiction - petition for the case to be tried in adult court - in any case in which a child is at least 15 years old. Therefore, this bill does not change which children are *eligible for* (or can be tried in) adult court, it simply changes where the children's cases *start*.

### **Inefficient Process**

Starting so many cases in adult court, rather than in juvenile court - with the option to waive up to adult court if necessary - is timely, costly, and wasteful. Roughly 85% of the cases that start in adult court are eventually dismissed or transferred down to juvenile court.<sup>10</sup> Starting these 33 offenses in the slower moving adult court system extends the time it takes for transfer hearings and trials/adjudications to happen and therefore increases the length of time a child spends in detention. By comparison, starting cases in juvenile court with the ability to waive cases to adult court is a much more efficient process that will better serve Marylanders. This bill will streamline an inefficient system while still enabling prosecutors and courts to waive the most serious offenses to adult court.

The adult court system moves significantly more slowly than the juvenile court system in general. For example, circuit court cases must be tried within 180 days, whereas juvenile court cases must be tried within 60, or 30, if the child is detained. This slower process means that children sitting in detention (whether it be adult detention or juvenile detention) spend much more time waiting for a transfer hearing than children whose cases have started in juvenile court and are waiting for a waiver hearing. According to the Governor's Office of Crime Prevention and Policy, the average time a child waits for a transfer hearing is 125 days.<sup>11</sup> This means that our process as it currently stands also lengthens the amount of time it takes for children to receive the services they might need, that only the juvenile system can provide. As shown in the below chart, it takes twice as

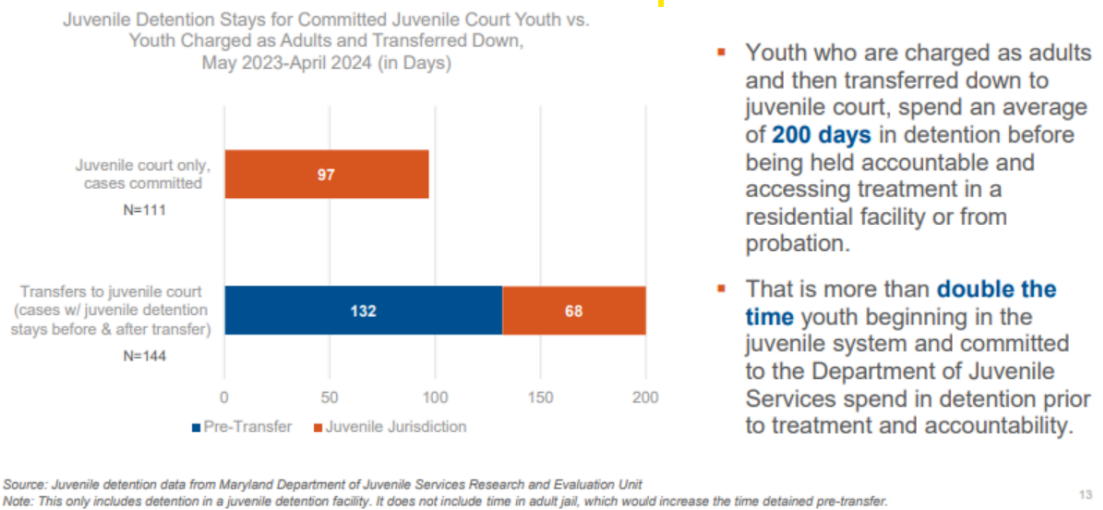
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<sup>10</sup> Josh Rovner of the Sentencing Project Before the Maryland Senate Judicial Proceedings Committee (Feb. 4, 2025), <https://www.sentencingproject.org/app/uploads/2025/02/Testimony-SB-422-TSP.pdf> (“Roughly 85 percent of youth automatically sent to the adult justice system either have their case dismissed or sent back to the juvenile system. Clearly, too many young people begin their cases in adult courts under current law. The status quo sends hundreds of teenagers into adult courts to wait for a process that will dismiss the charge entirely or waive the youth back into the juvenile court more than 85 percent of the time.”). When the JJRC examined this issue they received technical support from the Vera Institute, which included analyzing data from Maryland’s Courts on the cases of children charged as adults. *See Preliminary Findings: Youth Charged as Adults in Maryland*, VERA INST. (Dec. 10, 2020), <https://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>. It should be noted that Vera only analyzed data from 21 Counties and Baltimore City. Two of Maryland’s largest jurisdictions, Prince George’s County and Montgomery County, were not yet utilizing MDEC.

<sup>11</sup> Governor’s Office of Crime Prevention and Policy. (2024). Youth charged as adults: The costs to Maryland’s justice system and communities. <https://gocpp.maryland.gov/wp-content/uploads/Youth-Charged-as-Adults-Costs.pdf>

long for children to receive services via a commitment to DJS when their case starts in adult court versus juvenile court.

## Dead Time: Youth initially charged as adults take much longer to receive accountability and treatment in JJ system



Given that such a small percentage of cases automatically charged in adult court actually result in an adult sentence, the lengthy and expensive periods of incarceration, significant litigation costs, and judicial resources that process requires, is both wasteful and unnecessary. Further, the damage done to children, charged as adults yet still presumed to be innocent, can never be undone despite the outcome of the case. In just the month of December 2025, there were 3 separate cases in Baltimore City alone where children were detained for several months pending contested transfer hearings that were ultimately dismissed. In one case, a child was detained for 6 months waiting for her transfer hearing, only to have the entire case dismissed for insufficient evidence the day after the transfer hearing. The adult co-Defendant's case was dismissed at the preliminary hearing 6 months prior for the same reason, yet, because the child had no other option than to pursue a transfer hearing, she had to be detained 6 months waiting for that hearing; costing the State of Maryland around \$211,000<sup>12</sup> in detention alone (not taking into account court resources, expert fees, etc.).

<sup>12</sup> One day in DJS facilities costs \$1,174/day x 6 months. See DJS Expenditures, FY 2024. Retrieved from pg IX: [https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2024.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2024.pdf)

Though that child was always presumed to be innocent, and her case was ultimately dismissed, due to the practice of automatically charging children as adults, she was detained for 6 months that will never be recovered..

## **High Cost**

The inefficiency of starting children's cases in adult court is also costing the State of Maryland a significant amount of money. When children's cases start in adult court, they spend, on average, 98 days longer in DJS detention facilities waiting for a disposition than if their case started in juvenile court. In FY24, the cost to detain each child per day was \$1,174 - amounting to \$147,000 per child on average for children automatically charged as adults.<sup>13</sup> In FY24, 60% of the youth detained by DJS were those automatically charged as adults and pending their transfer hearings.<sup>14</sup> Ending the practice of automatically charging children as adults would significantly reduce the amount of time these children are in DJS detention, thus lowering the daily population, and as estimated by DJS, saving them approximately \$17 million annually.<sup>15</sup>

In addition to the large number of children in DJS custody due to this practice, numerous children are also held in adult detention. There are significant costs associated with housing these children in adult facilities, and with the large number of children improperly housed in adult detention there is widespread federal noncompliance. Maryland stands to lose \$350,000 in federal formula grant funding over the next two years due to these violations.<sup>16</sup>

Finally, Senate Bill 323 would effectuate cost savings for the Maryland Office of the Public as it would decrease the number of transfer hearings, and the expense of hiring expert psychologists to evaluate the children for their hearings. OPD has estimated they would save \$1.85 million annually after an initial \$1.4 million in the first year.<sup>17</sup> Starting so many cases in adult court, while we know that the vast majority will not stay there, is costing Maryland millions of dollars a year. That

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<sup>13</sup> DJS Expenditures, FY 2024. Retrieved from pg IX:

[https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2024.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2024.pdf)

<sup>14</sup> Youth Charged as Adults Pending Transfer Demographics by Detention Facility, FY 2024. Retrieved from pg 115:

[https://djs.maryland.gov/Documents/DRG/Data\\_Resource\\_Guide\\_FY2024.pdf](https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2024.pdf)

<sup>15</sup> Fiscal and Policy Note SB422 (2025 Session). [https://mgaleg.maryland.gov/2025RS/fnotes/bil\\_0002/sb0422.pdf](https://mgaleg.maryland.gov/2025RS/fnotes/bil_0002/sb0422.pdf), page 4.

<sup>16</sup> GOCPP (2025). Maryland's JJDA Compliance Crisis in Adult Detention. Retrieved from

<https://gocpp.maryland.gov/wp-content/uploads/Marylands-JJDPA-Compliance-Crisis-Children-in-Adult-Detention-COMMISSION-APPROVED-.docx.pdf>

<sup>17</sup> GOCPP (2025). Youth charged as adults: The costs to Maryland's justice system and communities. Retrieved from

<https://gocpp.maryland.gov/wp-content/uploads/Youth-Charged-as-Adults-Costs.pdf>

money could be relocated to community resources, wrap around services, and the juvenile system to ensure that our children receive all the guidance, treatment, and rehabilitative services needed, in turn making our communities safer as well.

### **Harmful Impact on Children**

Automatically charging children as adults is not only highly inefficient and expensive, it also causes unnecessary, irreparable damage to children, their families, and their communities. The children who bear the brunt of this practice are black and brown children with histories of trauma. Starting these children's cases in adult court, without any judicial oversight, often results in children being detained in adult facilities which are vastly underequipped to house children and further traumatize these children as they wait for their transfer hearings. The impact is often devastating to their emotional health, their education, and to public safety - as detaining children in adult facilities increases the recidivism rate.

Under the current law, Maryland is charging an inordinate amount of children of color in adult court. According to the Department of Public Safety and Correctional Services (DPSCS), between July 1, 2024 and July 30, 2025, 77.4% of youth who were charged as adults were Black.<sup>18</sup> Further, 90% of people incarcerated in Maryland who have been there since childhood are Black. This practice which impacts primarily children of color from marginalized communities may be a contributing factor to why Maryland imprisons a higher percentage of Black people (70%) than any other state in the nation.<sup>19</sup>

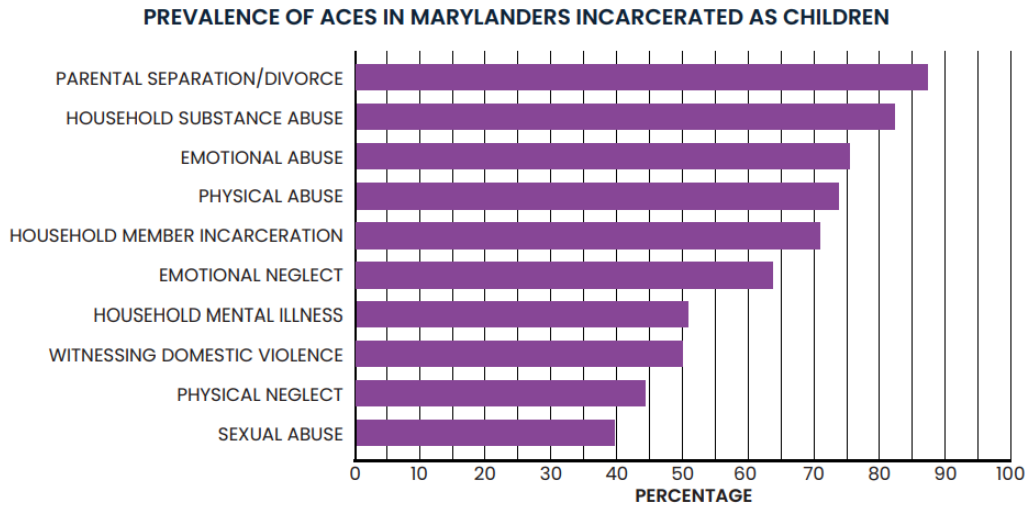
In addition, this practice harms the most vulnerable children in Maryland, those who already have a significant history of trauma. In their 2024 report, "Disposable Children: The Prevalence of Child Abuse and Trauma Among Children Prosecuted and Incarcerated as Adults in Maryland," Human Rights for Kids found that there was an average ACE (Adverse Child Experience) score of 6.38 out of 10 for the respondents of their survey and nearly 70% of respondents reported experiencing six or more ACEs prior to their incarceration. CDC studies show that only 17.3 % of the general population display ACE scores of four or higher. In addition, 73.39% of the survey

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<sup>18</sup>*Juveniles Charged as Adults*, MD. DEPT. PUBL. SAFETY & CORR. SERVS. (June 30, 2025), <https://app.powerbigov.us/view?r=eyJrIjoibNTZmYzZlN2MtNjcyNC00OGRjLTkwYjktYTZzNGVmNzc0M2UzIiwidCI6IjYwYWZlOWUyLTQ5Y2QtNDliMS04ODUxLTY0ZGYyMjc2YTJlOCJ9>

<sup>19</sup>Justice Policy Institute, *Rethinking Approaches to Over Incarceration of Black Young Adults in Maryland*, 2019. <https://justicepolicy.org/research/policy-briefs-2019-rethinking-approaches-to-over-incarceration-of-black-youngadults-in-maryland>

respondents reported having experienced physical abuse, 39.52% reported sexual abuse, and 75.81% reported emotional abuse before their incarceration. On average, respondents first experienced abuse at the age of six years old.<sup>20</sup>



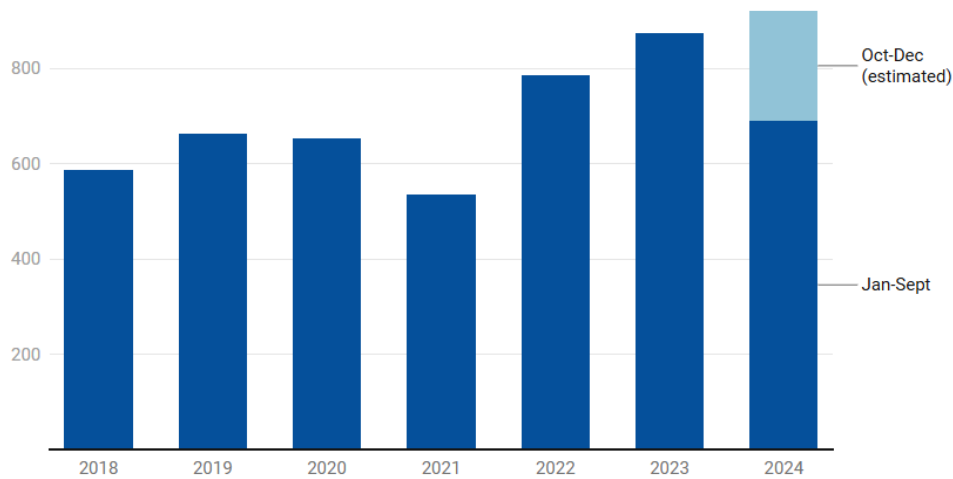
When these children, the vast majority having significant trauma, are automatically charged as adults, they will automatically be held in adult detention, usually in solitary confinement, until they are seen by a judge for a bail review hearing.<sup>21</sup> While Maryland law allows judges to hold children charged as adults at DJS facilities, not all do. Rachel Baye, from WYPR, reported in March 2025 that about a quarter of children stays in adult jails lasted longer than 30 days, and that “some lasted more than a year. The number of times youth were booked in adult jails each year has also increased. Last year was on pace to have the highest number of bookings in the seven-year period, based on the nine months of data available from 2024.”<sup>22</sup>

<sup>20</sup> HUM. RTS. FOR KIDS, DISPOSABLE CHILDREN: THE PREVALENCE OF CHILD ABUSE AND TRAUMA AMONG CHILDREN PROSECUTED AND INCARCERATED AS ADULTS IN MARYLAND (2021), <https://www.defendyouthrights.org/wp-content/uploads/Disposable-Children-The-Prevalence-of-Child-Abuse-and-Trauma-Among-Children-Prosecuted-As-Adults-in-Maryland.pdf>.

<sup>21</sup> While it is possible for a Commissioner to release a child charged as an adult on bond this rarely, if ever, happens.

<sup>22</sup> Rachel Baye, *A national outlier, Maryland's jails fail to protect young inmates*, WYPR (Mar. 3, 2025), <https://www.wypr.org/wypr-news/2025-03-03/a-national-outlier-marylands-jails-fail-to-protect-young-inmates>.

## Youth bookings in Maryland's adult jails each year



Source: The Governor's Office of Crime Prevention and Policy provided juvenile holding logs to WYPR and APM Reports. Figures from October through December, 2024 were unavailable at the time of publishing, and were estimated based on the previous 9 months. [Get the data](#)  
Created with [Datawrapper](#)

When children are held in adult jails the Prison Rape Elimination Act requires children to be sight and sound separated from adult inmates.<sup>23</sup> Local detention centers are not equipped to maintain separate units for children and adults. Instead, children are often held in solitary confinement while they wait for a transfer hearing. Mental health professionals have long known that solitary confinement causes significant harm. The American Psychological Association has come out solidly against the use of prolonged solitary confinement for children.<sup>24</sup> As has the American Academy of Child and Adolescent Psychiatry noting “the potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.”<sup>25</sup> Courts have also acknowledged the harms caused by solitary confinement, holding that for inmates already suffering with mental illness it can amount to cruel and unusual punishment.<sup>26</sup>

<sup>23</sup> 28 C.F.R. § 115.14.

<sup>24</sup> *Position Statement on Solitary Confinement (Restrictive Housing) of Adolescents*, AM. PSYCH. ASS'N (2018), <https://www.psychiatry.org/getattachment/7bc96d18-1e73-4ac1-b6b5-f0f52ed4595a/Position-2018-Solitary-Confinement-Restricted-Housing-of-Juveniles.pdf>.

<sup>25</sup> *Solitary Confinement of Juvenile Offenders*, AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY (2012), [https://www.aacap.org/aacap/Policy\\_Statements/2012/Solitary\\_Confinement\\_of\\_Juvenile\\_Offenders.aspx](https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx).

<sup>26</sup> *Palakovic v. Wetzell*, 854 F.3d 209 (3d Cir. 2017).

Therefore, this period of incarceration not only exacerbates the trauma that has already typically gone untreated (only 28.23% of people incarcerated as children have received treatment to address any of the various traumas they experienced prior to their incarceration<sup>27</sup>), but further traumatizes these children. Of the respondents in the Human Rights for Kids Report, “almost 98% of respondents had been placed in solitary confinement at some point during their incarceration, with nearly 80% experiencing solitary confinement as children. Over 80% of respondents reported experiencing abuse at the hands of staff or other incarcerated people.” According to a report by the Department of Justice, “[a]s compared with those in juvenile facilities, juveniles incarcerated in adult prison are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and almost twice as likely to be attacked with a weapon by inmates or beaten by staff.”<sup>28</sup> In addition, the facilities and their resources in and of themselves are often below basic standards for children. This past December, for example, the Youth Detention Center in Baltimore City, a facility that houses Baltimore children charged as adults that is run by the Department of Public Safety and Correctional Services (*not* the Department of Juvenile Services) was without heat for weeks.<sup>29</sup> In local jails across the state, it is not uncommon to see children with the adult jumpsuits falling off their shoulders, a visual example of how ill-fitting it is to detain a child in an adult facility.

The harmful conditions and practices involved with children detained in adult facilities are the symptoms of the Maryland adult court system’s inability to safely manage the extraordinary amount of children charged as adults. As recently reported by the Commission on Juvenile Justice Reform and Emerging and Best Practices, “Maryland is significantly out of compliance with federal standards governing the pretrial detention of children charged as adults. In 2025, the United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) began enforcing thresholds on length of stay and sight and sound separation in adult facilities, using new data formulas to assess state performance. In FY 2023, Maryland’s detention rate was 93.26 per 100,000 children, *over six times* the federal standard of 14.68. That number rose to 119.59 in FY 2024, a 27% increase. The state reported roughly 1,600 violations, more than any other state, *prompting*

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<sup>27</sup> *Id.*

<sup>28</sup> Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, OFF. JUV. JUST. & DELINQ. PREVENTION (June 2010), <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>.

<sup>29</sup> Ian Round, *After Baltimore detention center loses heat, calls to end automatically charging kids as adults intensify*, DAILY REC. (Dec. 8, 2025), <https://thedailyrecord.com/2025/12/08/after-detention-center-loses-heat-calls-to-end-automatically-charging-kids-as-a-dults-intensify/#:~:text=The%20lack%20of%20heat%20at,detention%20centers%20and%20criminal%20court.>

*OJJDP to exclude Maryland's data from national averages due to its extreme outlier status (emphasis added).<sup>30</sup>*

To put it another way, by detaining such a high number of children, **Maryland has come so far out of Federal compliance in housing children in adult facilities that it cannot be included in federal data, as it would skew the results.** As stated in the report: “The severity of this issue of noncompliance lays bare the overarching issue of adult auto charging in the state. As long as we uphold the practice of auto charging, compliance will be a perpetual issue. There are no winners in the current situation.”

### **Detrimental Impact of Auto-Charging on Public Safety**

In addition to being inefficient, costly, and harmful, automatically charging children as adults does *not* yield positive outcomes for public safety, but rather, increases recidivism rates, placing communities more at risk. In the long run, prosecuting children in the adult criminal system does more harm to Marylanders than prosecuting them in the juvenile court. The problems created by automatically charging children as if they were adults are separate and apart from the problems created by actually trying them and *sentencing* them as if they were adults. Nevertheless, one might be concerned that by charging more children in juvenile court we could be undermining public safety if more children are therefore also ultimately tried and sentenced in juvenile court. The simple fact of the matter is that the opposite appears to be true. Decades of research published by governmental agencies responsible for public safety and health - Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Centers for Disease Control (CDC) - make clear that prosecuting children as adults increases recidivism among juvenile offenders, rather than reducing it. In 2007, the CDC published an article entitled "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System" reviewing several studies. The authors of the CDC Report concluded “the transfer policies have generally resulted in increased arrest for subsequent crimes, including violent crime, among juveniles who were transferred [to the adult criminal system] compared with those retained in the juvenile justice system.”<sup>31</sup>

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<sup>30</sup> PROCESSES & SYS. COORDINATION WORKGROUP OF THE MD. COMM'N ON JUV. JUST. REF. & EMERGING & BEST PRACTICES, MARYLAND'S JJDPA COMPLIANCE CRISIS: CHILDREN IN ADULT DETENTION (Oct. 23, 2025), <https://gocpp.maryland.gov/wp-content/uploads/Marylands-JJDPA-Compliance-Crisis-Children-in-Adult-Detention-COMMISSION-APPROVED-.docx.pdf>.

<sup>31</sup> Robert Hahn et al., *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*, 56 MORBIDITY AND MORTALITY WKLY. REP. 1 (Nov. 30, 2007).

Four years later the OJJDP published a bulletin where they found “[I]nsofar as these laws are intended to deter youth crime generally, or to deter or reduce further criminal behavior on the part of youth subjected to transfer, research over several decades has generally failed to establish their effectiveness.<sup>32</sup> ... Six large-scale studies have all found greater overall recidivism rates among juveniles who were prosecuted as adults than among matched youth who were retained in the juvenile system. Criminally prosecuted youth were also generally found to have recidivated sooner and more frequently. Poor outcomes like these could be attributable to a variety of causes, including the direct and indirect effects of criminal conviction on the life chances of transferred youth, the lack of access to rehabilitative resources in the adult corrections system, and the hazards of association with older criminal ‘mentors.’”<sup>33</sup>

In 2012 OJJDP examined a longitudinal study conducted in Maricopa Co., Arizona. This study showed evidence of differential effects of prosecuting children as adults.<sup>34</sup> They explain that children who had been prosecuted as adults “experience many challenges in the community while on probation or following release from an adult facility. Although the vast majority are involved in gainful activity quickly (within 2.5 months) and consistently (for nearly three-quarters of the months they spend in the community), the majority (77%) also resumed some level of antisocial activity and two-thirds were subsequently re-arrested or placed in an institutional setting. Only 18 of these youth (out of 193) managed to break out of this antisocial pattern completely.”<sup>35</sup>

Children are held accountable for their illegal actions in the juvenile court system but in a way that aims for rehabilitation rather than only retribution. In fact, DPSCS purports to have a recidivism rate of approximately 37% after three (3) years,<sup>36</sup> as compared to DJS’s rate of 15.2% after three (3) years<sup>37</sup>.

Many kids charged and tried as adults have cases that are dismissed after they have been incarcerated, often for months, sometimes for a year or more. That is a concrete implication of our

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<sup>32</sup> PATRICK GRIFFIN, ET AL., OFF. JUV. JUST. & DELINQ. PREVENTION, TRYING JUVENILES AS ADULTS: AN ANALYSIS OF STATE TRANSFER LAWS AND REPORTING 1, 8 (Sept. 2011) (Hereinafter *OJJDP 2011 Report*).

<sup>33</sup> *Id.* at 26.

<sup>34</sup> Edward P. Mulvey & Carol A. Schubert, *Transfer of Juveniles to Adult Court: Effects of a Broad Policy in One Court*, OFF. JUV. JUST. & DELINQ. PREVENTION (Dec. 2012) (Hereinafter *OJJDP 2012 Report*).

<sup>35</sup> *Id.* at 11.

<sup>36</sup> MD. DEPT. PUBL. SAFETY & CORR. SERVS., RECIDIVISM REPORT 9, 24 (Nov. 15, 2022) (defining recidivism as “return to either the DOC or the Division of Parole and Probation following sentencing for a new criminal offense, or return to the Department’s physical custody from parole or mandatory supervision due to violation of the conditions of release”).

<sup>37</sup> MD. DEP’T JUV. SERVS., DATA RESOURCE GUIDE FISCAL YEAR 2024 167 (organizing recidivism data by rearrest, re-conviction, and re-incarceration.) In an effort to compare “apples to apples,” the re-incarceration rate is shown.

current process that starts off by putting children in solitary confinement, a practice widely understood to be harmful. Those children who have been harmed by virtue of charging them as adults and not starting in juvenile court, will eventually return to the community. We are all better off with policies that favor rehabilitation rather than retribution. Our current laws impact not only the most terrifying scenarios, but also comparatively minor conduct. To use a real world example, if a child is riding in the backseat of a car that happens to have a gun in it (whether they are aware of it or not) they are automatically charged as an adult. Whether that child happens to be a student taking Advanced Placement and Gifted and Talented classes with no prior incidents of problematic behavior, or a child who habitually skips school and has previously been on probation will not matter at the point of charging. Both of those children will start in adult court and are subjected to the harms outlined above merely by starting in adult court. Senate Bill 0323 would allow a case like this to be **started** in Juvenile Court. If a prosecutor felt that the circumstances of the case, the child's history, and potential risk for public safety justified waiving juvenile jurisdiction they would be able to file a waiver petition and have a full hearing on the issue.

We know that trauma plays a role in both offending and re-offending. And so to inflict these harmful conditions on children before we have even decided whether to try them as children or adults, let alone determine whether they are guilty or innocent, increases the likelihood that they will get into trouble with the law in the future. Given that the vast majority of these children will be released someday regardless of where the case is tried, or what the ultimate outcome of the case is, we are doing a grave disservice to our communities by inflicting further trauma on them.

The Office of the Public Defender remains in favor of ending the automatic charging of all of Maryland's children as if they were adults. OPD acknowledges that while SB0323 does not end the practice in its entirety, it does take a step in the direction of making Maryland's communities safer.

**For these reasons we urge a Favorable report on Senate Bill 0323.**

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